

CHAPTER 944

H.B. No. 1790

AN ACT

relating to the merger, reorganization, or conversion of state or federal savings banks, state or federal savings and loan associations, and state banks and the investments of a savings and loan association.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section E, Article 5, Chapter III, The Texas Banking Code (Article 342–305, Vernon’s Texas Civil Statutes), is amended to read as follows:

E. The provisions of the Administrative Procedure and Texas Register Act (Article 6252–13a, Vernon’s Texas Civil Statutes) governing contested cases do not apply to charter applications filed for the purpose of assuming the assets and liabilities of any bank, *state or federal savings bank, or state or federal savings and loan association* deemed by the Banking Commissioner to be in an unsafe condition.

SECTION 2. Article 8, Chapter III, The Texas Banking Code (Article 342–308, Vernon’s Texas Civil Statutes), is amended to read as follows:

Art. 8. MERGER—TRUST POWERS. Any two or more state banks, or if national banks are hereafter authorized by the laws of the United States to participate in such a merger, any one or more state banks and any one or more national banks domiciled in this State, *or any state bank and any state or federal savings and loan association or state or federal savings bank authorized by the laws of this state or the United States to participate in a merger*, may, with the approval of the Banking Commissioner and the written consent of the owners of record of two-thirds of the capital of each of said *institutions* [banks], be merged. Said merging *institutions* [banks] shall file with the Banking Commissioner:

(1) A statement of the plan of merger approved by the board of directors of each merging *institution* [bank], by a majority vote of the qualified directors.

(2) Certificate of merger stating the facts required by Article 4 of this chapter and executed and acknowledged by a majority of the qualified directors of each merging *institution* [bank].

The Banking Commissioner shall thereupon investigate the condition of the merging *institutions* [banks] and if *the Commissioner* [he] finds that the state bank which will result from the merger (hereafter called the “resulting bank”) will be solvent and its capital unimpaired; that it will have adequate capital structure; that such merger does not violate the anti-trust laws of this state; and that the resulting bank has in all respects complied with the laws of this State relative to the incorporation of State banks, *the Commissioner* [he] may approve such merger, and, if *the Commissioner* [he] so approves, *the Commissioner* [he] shall deliver to the resulting bank a certified copy of the certificate of merger, which certificate shall constitute the charter and articles of association of the resulting bank. The resulting bank shall be deemed a continuation in entity and identity of each of the *institutions* [banks] involved in the merger; shall be subject to all the liabilities, obligations, duties and relations of each merging *institution* [bank]; and shall without the necessity of any conveyance, assignment or transfer become the owner of all of the assets of every kind and character formerly belonging to the merging *institutions* [banks]; further, provided, that if any merging *institution* [bank] shall at the time of the merger be acting as trustee, guardian, executor, administrator, or in any other fiduciary capacity, the resulting bank shall, without the necessity of any judicial action or action by the creator of such trust, continue such office, trust or fiduciary relationship and shall perform all of the duties and obligations and exercise all of the powers and authority connected with or incidental to such fiduciary relationship in the same manner as though the resulting bank had been originally named or designated as such fiduciary.

The naming or designating by a testator, or the creator of a living trust, of any one of the merging *institutions* [banks] to act as trustee, guardian, executor or in any other fiduciary capacity shall be considered the naming or designating of the bank resulting from the merger.

A stockholder may dissent from the merger by following the procedure provided by Article 5.12, Texas Business Corporation Act. That procedure applies to a merger under this article, as if the state bank were a corporation organized under the Texas Business Corporation Act.

SECTION 3. Article 9, Chapter III, The Texas Banking Code (Article 342–309, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 9. REORGANIZATION—INCORPORATION TO TAKE OVER BUSINESS OF OTHER BANKS OR STATE OR FEDERAL SAVINGS BANKS OR SAVINGS AND LOAN ASSOCIATIONS—TRUST POWERS. A state bank may be incorporated to take over the business of any incorporated bank or banks, state or national, or of any state or federal savings bank or state or federal savings and loan association, as a step in the reorganization of such *institution* [bank] or *institutions* [banks], (which *institution* [bank] or *institutions* [banks], whether one or more, will be hereafter referred to as the “reorganizing institution”) [~~“reorganizing bank”~~], and shall, subject to the provisions of this article, be authorized to purchase assets from the reorganizing *institution* [bank] and as consideration therefor, assume all liabilities, known or unknown, of the reorganizing *institution* [bank], other than its liability to stockholders as such.

Persons desiring to incorporate a state bank under the provisions of this article shall proceed in the manner provided in Article 5 of this Chapter, and in addition, shall file with the Banking Commissioner:

(1) The proposed contract whereby the state bank is to purchase the assets from and assume the liabilities of the reorganizing *institution* [bank], as above mentioned.

(2) Contracts, if any, whereby the proposed state bank is to purchase for cash the whole or any part of the right of any or all of the stockholders of the reorganizing *institution* [bank] to receive liquidating dividends upon liquidation of the reorganizing *institution* [bank], which contracts shall expressly provide that they shall be binding and effective only in event the reorganizing *institution* [bank] is placed in voluntary liquidation within ten (10) days of the granting of the application for the charter applied for. Such contracts shall be executed on behalf of the proposed bank by the persons applying for the charter.

If the Banking Commissioner, after investigation, determines that the proposed bank, if incorporated, will, after its capital has been paid in full and all contracts above mentioned finally consummated, be solvent, its capital adequate and unimpaired, that such reorganization is to the best interest of the reorganizing *institution* [bank], its depositors, creditors and stockholders and the public in general, and that upon incorporation such bank will have in all other respects complied with the law, *the Commissioner* [he] shall recommend to the State Banking Board that the charter be granted.

If the State Banking Board concurs in the findings of the Banking Commissioner, it shall grant the application, and the Banking Commissioner shall deliver a certified copy of the articles of association in the manner provided in Article 5 of this chapter. Provided, however, that the Banking Commissioner shall not deliver a certificate of authority until the contracts above mentioned have been fully consummated, and the requirements of Article 7 of this chapter have been met. The state bank so incorporated shall be deemed a reorganization of the reorganizing *institution* [bank], and a continuation of such *institution* [bank] in entity and identity, subject to all of its liabilities, obligations, duties and relations, save and except its liability to stockholders as such, and shall pay and perform each and every obligation, duty and liability of the reorganizing *institution* [bank] in exactly the same manner as the reorganizing *institution* [bank] was obligated to do; further provided that if the reorganizing *institution* [bank] was at the time of incorporation of the new state bank, named or acting as guardian, trustee, executor, administrator or in any other fiduciary capacity, such state bank shall, without the necessity of any judicial action, or action by the creator of such trust, continue the trusteeship or other fiduciary relation and perform all of the duties and obligations of the reorganizing *institution* [bank] and exercise all the powers and authority relative thereto; and neither the reorganization of such *institution* [bank], nor any liquidation of such *institution* [bank] in connection therewith, shall be deemed a resignation or refusal to act. The naming or designating by a testator or the creator of a living trust of the reorganizing *institution* [bank] to act as trustee, guardian, executor, or in any other fiduciary capacity shall be considered the naming or designating of the bank resulting from the reorganization.

The new state bank shall give notice of its assumption of the liabilities of the reorganizing *institution* [bank] by publishing notice thereof once each week for a period of two (2) weeks in some newspaper of general circulation published in the county of its domicile, or in event no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county. The first notice shall be published within ten (10) days after the delivery of the certificate of authority to such bank.

SECTION 4. Article 10, Chapter III, The Texas Banking Code (Article 342-310, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 10. PURCHASE OF ASSETS OF ANOTHER BANK OR STATE OR FEDERAL SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION—DISBURSING AGENT. Any state bank may, with the consent of the Banking Commissioner, purchase the whole or any part of the assets of any other state bank or of any national bank domiciled in this State, or of a state or federal savings bank or state or federal savings and loan association, and may hold the purchase price and any additional funds delivered to it by the selling *institution* [bank] in trust for or as a deposit to the credit of the selling *institution* [bank]. The purchasing bank may act as agent of the selling *institution* [bank] in disbursing the funds so held in trust or on deposit by paying the depositors and creditors of the selling *institution* [bank], provided that if the purchasing bank acts under written contract of agency which specifically names each depositor and creditor and the amount to be paid each, and if such agency is confined to the purely ministerial act of paying such depositors and creditors the amounts due them as determined by the selling *institution* [bank] and reflected in the contract of agency and involves no discretionary duties or authority other than the identification of the depositors and creditors named, and if such contract is approved by the Banking Commissioner, then the purchasing bank may rely upon such contract of agency and the instructions included therein, and shall not be in any way liable or responsible for any error made by the selling *institution* [bank] in determining its liabilities, the depositors and creditors to whom such liabilities are due, or the amounts due such depositors and creditors; nor liable or in any way responsible for any preference which may result from the payments made pursuant to such contract of agency and the instructions included therein. Further provided that, in event the selling *institution* [bank] should, at any time after such sale of assets, be closed and come into the hands of the Banking Commissioner or, ~~if a national bank~~ into the hands of a receiver, then the purchasing bank shall pay to the Banking Commissioner as statutory liquidator or to the receiver of such *state* or national *institution* [bank] the balance of the funds held by it in trust or on deposit for the selling *institution* [bank], not theretofore paid to the depositors and creditors of the selling *institution* [bank], and shall thereupon stand discharged of any and all liabilities, obligations or responsibilities to the selling *institution* [bank], its receiver, the Banking Commissioner as its statutory liquidator, or to the depositors, creditors or stockholders thereof. Provided further that payment to any depositor or creditor of the selling *institution* [bank] of the amount to be paid him under the terms of the contract of agency may be effected by the purchasing bank opening an account in the name of such depositor or creditor, crediting such account with the amount to be paid the depositor or creditor under the terms of such agency contract, and mailing a duplicate deposit ticket evidencing such credit to such depositor or creditor at his address as reflected by the records of the selling *institution* [bank], or delivering it to him personally, and the relation of debtor to creditor shall thereupon arise between the purchasing bank and such depositors and creditors to the extent and only to the extent of the credit reflected by such deposit tickets. Further provided, that if any such depositor or creditor checks upon the credit so created, or if he does not within sixty (60) days of the mailing or the personal delivery of such deposit ticket protest the transaction and demand payment from the selling *institution* [bank], he shall be deemed to have ratified the transaction and to the extent of the credit so created to have accepted the obligation of the purchasing bank as reflected by said deposit ticket in satisfaction of the obligation of the selling *institution* [bank], and the obligation of the selling *institution* [bank] to the extent of such credit shall be deemed paid and satisfied within the meaning of this article.

SECTION 5. Article 13, Chapter III, The Texas Banking Code (Article 342-313, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 13. MERGER, REORGANIZATION, OR CONVERSION OF STATE BANK INTO NATIONAL BANK OR STATE OR FEDERAL SAVINGS BANK OR SAVINGS AND

LOAN ASSOCIATION. The owners of record of two-thirds of the capital of any solvent state bank may, by vote or written consent, authorize its officers and directors to take such action as may be necessary under the laws of the United States or the state laws governing savings and loan associations and savings banks to merge, reorganize, or convert it into a national bank, state or federal savings bank, or state or federal savings and loan association, provided, however, that the state bank shall not cease to be a state bank subject to the supervision of the Banking Commissioner until (1) the Banking Commissioner has been given written notice of the intention to merge, reorganize, or convert for at least thirty (30) days, (2) such bank has published notice thereof at least once a week for four (4) weeks in a newspaper of general circulation published in the county of its domicile, or, if no such newspaper is published in the county, in an adjacent county, (3) the bank has filed with the Banking Commissioner a transcript of the merger, reorganization, or conversion proceedings, sworn to by a majority of the qualified directors and a publisher's certificate showing publication of the notice above provided, and (4) such bank has received a certificate of authority to do business as a national bank, state or federal savings bank, or state or federal savings and loan association.

SECTION 6. Article 13a, Chapter III, The Texas Banking Code (Article 342-313a, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 13a. **CONVERSION OF NATIONAL BANK OR STATE OR FEDERAL SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION INTO STATE BANK.** A national bank, state or federal savings bank, or state or federal savings and loan association [~~or association~~] located in this state which follows the procedures prescribed by the laws of the United States or this state to convert into a state bank, shall be granted a certificate of incorporation in the state when the State Banking Board finds that the institution [~~bank~~] meets the standards as to location of office, capital structure and business experience of officers and directors for the incorporation of a state bank. In considering the application for conversion from a national bank, state or federal savings bank, or state or federal savings and loan association into a state bank the Board shall consider and determine that the new bank meets with all the requirements of a new state bank applicant. *The conversion is governed by this Article and not by Article 9 of this chapter.* Included also in the application of a national bank for conversion and to be considered along with the other information submitted shall be the terms of the transition from a national bank into a state bank which shall also show that the provisions of Public Law 706 of the 81st Congress of the United States have been fully satisfied. [~~Such conversion shall be governed by the provisions of this Article and shall not be governed by Article 9, now codified as Article 342-309, Vernon's Texas Civil Statutes.~~]

SECTION 7. Chapter V, The Texas Banking Code (Article 342-501 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 14 to read as follows:

Art. 14. **HOME MORTGAGE REQUIREMENTS FOR RESULTING INSTITUTION.**
(a) *In this article:*

(1) "Financial institution" means a state or federal bank, a state or federal savings bank, or a state or federal savings and loan association.

(2) "Home mortgage" means an interest-bearing loan, or a participation in an interest-bearing loan, that is:

(A) made to purchase, improve, or construct a home;

(B) evidenced by a promissory note; and

(C) secured by a mortgage, mortgage deed, deed of trust, or other instrument that constitutes a lien on the home.

(3) "Resulting institution" means the financial institution that carries on in this state the business of a financial institution after a merger with or a reorganization, conversion, consolidation, or acquisition of another financial institution.

(b) The percentage of home mortgage loans held in the loan portfolio of a resulting institution may not be less than the percentage of home mortgage loans held in the loan portfolio of the financial institution involved in the merger, reorganization, conversion, consolidation, or acquisition that, on the 30th day before the date of the merger, reorganization, conversion, consolidation, or acquisition, has the greatest percentage of home mortgage loans in its loan portfolio.

(c) *The percentage of home mortgage loans held in a financial institution's loan portfolio is computed by dividing the total principal amount of the financial institution's outstanding home mortgage loans by the total principal amount of all of the financial institution's outstanding loans.*

(d) *This article applies to all financial institutions to the extent permitted by federal law and by Article XVI, Section 16(c), of the Texas Constitution.*

SECTION 8. Section 4, Article 12, Chapter IX, The Texas Banking Code (Article 342-912, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. APPLICATION AND FILINGS BY OUT-OF-STATE BANK HOLDING COMPANY SEEKING ACQUISITION. An out-of-state bank holding company that seeks to take an action specified in Section 1 of this article for which a copy of the application must be filed with the banking commissioner shall also file with the banking commissioner, when it delivers the application:

(1) evidence that the out-of-state bank holding company is authorized to take the action under Article 16 of this chapter;

(2) evidence that the out-of-state bank holding company and each state bank, national bank in this state, and bank holding company being acquired will, after the acquisition, comply with applicable capital adequacy guidelines, and that the consolidated equity capital condition of these banks in this state during the first three years after being acquired will be maintained at least at the level existing immediately prior to the acquisition less the consolidated net loss of these banks, if any;

(3) agreements, subject to any contrary provision of applicable federal law, that while the out-of-state bank holding company directly or indirectly owns or controls any national bank in this state, [:

[~~(A)~~] a majority of the directors of each national bank shall be residents of the State of Texas, except that directors who are employees or officers or spouses of employees or officers of the bank, out-of-state bank holding company, or an affiliate of the bank or out-of-state bank holding company may not be counted as residents of the State of Texas for the purpose of this *subdivision* [~~paragraph~~]; and

[~~(B)~~] ~~the out-of-state bank holding company will not directly or indirectly own or control;~~

[~~(i)~~] ~~an institution located in this state, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor performing similar functions, unless the institution is a bank as defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841); or~~

[~~(ii)~~] ~~an institution located in this state, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or any successor performing similar functions; and]~~

(4) an agreement to provide such additional information as may be required by rules promulgated by the banking commissioner.

SECTION 9. Sections 3 and 4, Article 16, Chapter IX, The Texas Banking Code (Article 342-916, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 3. [~~The authority granted by Section 1 of this article is not available to an out-of-state bank holding company that directly or indirectly owns or controls;~~

[~~(1)~~] ~~an institution located in this state, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor performing similar functions, unless such institution is a bank as defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841); or~~

[~~(2)~~] ~~an institution located in this state, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or any successor performing similar functions.~~

[~~Sec. 4.~~] The authority granted in Section 1 of this article is not available to an out-of-state bank holding company if after the transaction the aggregate deposits of the state banks and national banks domiciled in this state owned or controlled, directly or indirectly, by the out-of-state bank holding company would exceed 25 percent of the total deposits of all state banks

and national banks in this state as reported in the most recently available reports of condition or similar reports filed with state or federal authorities. For purposes of this section, the term "deposit" has the meaning assigned by Section 2[3], Federal Deposit Insurance Act (12 U.S.C. Sec. 1813).

SECTION 10. Section 10.02, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10.02. CONVERSION INTO STATE CHARTERED ASSOCIATION. Any Federal association or *state or national bank* may convert itself into an association under this Act upon a majority vote of the members, *shareholders, or stockholders* of such Federal association or *state or national bank* cast at an annual meeting or any special meeting called to consider such action. Copies of the minutes of the proceedings of such meeting of members, *shareholders, or stockholders*, verified by affidavit of the secretary or an assistant secretary, shall be filed in the office of the Commissioner and *with the Office of Thrift Supervision or its successor* [~~mailed to the Federal Home Loan Bank Board, Washington, D.C.,~~] within ten (10) days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meeting. At the meeting at which conversion is voted upon, the members, *shareholders, or stockholders* shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors then shall execute two (2) copies of the application for certificate of incorporation provided in this Act. The Commissioner shall, upon receipt of such application, cause the *converting institution* [~~association~~] to be examined and if *the Commissioner* [~~he~~] finds that it is in sound condition, approve the conversion and insert in the certificate of incorporation, at the end of the paragraph preceding the testimonium clause, the following: "This association is incorporated by conversion from _____ (a Federal savings and loan association, *state bank, or national bank, as applicable.*)" Each of the directors chosen for the *new* association shall sign and acknowledge the application for certificate of incorporation as subscribers thereto and the proposed bylaws as incorporators of the *new* association. The provisions of this Act shall, so far as applicable, apply to such conversion. The state-chartered association shall be a continuation of the corporate entity of the converting Federal association or *state or national bank* and continue to have all of its property and rights.

SECTION 11. Chapter 10, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended by adding Section 10.021 to read as follows:

Sec. 10.021. CONVERSION INTO OTHER FINANCIAL INSTITUTION. (a) *An association subject to this Act may convert itself into a state or national bank or state or federal savings bank on application to the commissioner.*

(b) *A conversion under this section may be initiated by the adoption of a resolution declaring that the association is to be converted. The resolution must be adopted by a majority vote of the members or shareholders of the association entitled to vote at an annual or special meeting called to consider the conversion. A copy of the minutes of the proceedings of the meeting, verified by an affidavit of the secretary or an assistant secretary, shall be filed in the office of the commissioner not later than the 10th day after the date of the meeting. A sworn and filed copy of the proceedings of the meeting is presumptive evidence of the meeting and action taken.*

(c) *An application for conversion shall be approved by the commissioner if the commissioner determines that the association is in good standing. For purposes of this subsection, an association is in good standing if the association has paid all fees, assessments, and money due and payable to the Savings and Loan Department of Texas.*

(d) *A copy of the charter issued to the new financial institution by the appropriate financial institution regulatory agency or a certificate showing the organization of the new institution as a financial institution, certified by the secretary or assistant secretary of the appropriate financial institution regulatory agency, shall be filed with the commissioner. Failure to file the charter or certificate with the commissioner does not affect the validity of the conversion.*

(e) *Following the approval of the application for conversion by the commissioner and on the granting of a charter by the appropriate financial institution regulatory agency, the institution receiving the new charter ceases to be an association incorporated under this Act*

and is no longer subject to the supervision and control of the commissioner, as provided by this Act.

(f) On the conversion of an association into another financial institution, the corporate existence of the association does not terminate, but the new financial institution is a continuation of the converting association. All property of the converting association, including its rights, titles, and interests in and to all property, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any value or benefit then existing, or pertaining to it, or which would inure to it, immediately by operation of law and without any conveyance or transfer and without any further act or deed remains and vests in and continues to be the property of the financial institution into which the association has converted. The new financial institution has, holds, and enjoys those properties, rights, privileges, interests, and assets in its own right as fully and to the same extent as they were possessed, held, and enjoyed by the converting association. The new financial institution at the time the conversion takes effect has and succeeds to all the rights, obligations, and relations of the converting association. A pending action or other judicial proceeding to which the association is a party is not abated or discontinued by reason of the conversion but may be prosecuted to final judgment, order, or decree in the same manner as if the conversion into the new financial institution had not been made. The new financial institution may continue a pending action in its corporate name as the new financial institution, and a judgment, order, or decree may be rendered for or against it that might have been rendered for or against the converting association.

SECTION 12. Section 10.03, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10.03. REORGANIZATION, MERGER, AND CONSOLIDATION. (a) Pursuant to a plan adopted by the board of directors and approved by the Commissioner, *and subject to the provisions of Chapter 9 of this Act*, an association shall have power to reorganize or to merge or consolidate with another association, [or] Federal association, *foreign association, state or national bank, or state or federal savings bank*; provided, that the plan of such reorganization, merger or consolidation shall be approved by a majority of the total vote the members or shareholders are entitled to cast. Approval may be voted at either an annual meeting or at a special meeting called to consider such action. A shareholder of a capital stock association has the same dissenter's rights as a shareholder of a domestic corporation under the Texas Business Corporation Act. In all cases the corporate continuity of the resulting corporation shall possess the same incidents as that of an *entity* [association] which has converted in accordance with this Act. The home office of the association in the proposed merger possessing the largest assets shall be designated as the home office of the surviving *entity* [association], unless otherwise approved by the Commissioner.

(b) Upon being presented with a plan of reorganization, merger, or consolidation, the Commissioner shall give public notice of the proposed reorganization, merger, or consolidation in the county or counties in which the *association or associations* participating in the proposed plan have offices and give any interested party an opportunity to appear, present evidence, and be heard for or against the proposed plan. The hearing shall be held before a hearing officer designated by the Commissioner. If a protest is not received on or before the date of hearing, the hearing may be dispensed with by the Commissioner or hearing officer. The provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applicable to a contested case apply to the hearing, except that the notice and hearing provisions of that Act and of this section do not apply to an application under this section if the Commissioner has designated the merger to be a supervisory merger, under rules adopted by the Finance Commission, and in that event, the application and all information relating to the application is confidential and privileged from public disclosure.

(c) The Commissioner shall issue an order denying the proposed plan if the Commissioner finds that:

(1) the reorganization, merger, or consolidation would substantially lessen competition or be in restraint of trade and would result in a monopoly or be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the savings and loan industry in any part of the state, unless the anticompetitive effects of the proposed

reorganization, consolidation, or merger 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) in a merger or consolidation, the financial condition of either *entity* [~~association~~] would jeopardize the financial stability of *any* [~~the other~~] association *that is a party to the plan*;

(3) the proposed plan is not in the best interest of *any association* [~~the associations~~] *that is a party* [~~are parties~~] to the plan;

(4) the experience, ability, standing, competence, trustworthiness, or integrity of the management of the *entities* [~~associations~~] proposing the plan is such that the reorganization, merger, or consolidation would not be in the best interest of the associations that are parties to the plan;

(5) after reorganization, merger, or consolidation the surviving *entity* [~~association~~] would not be solvent, have adequate capital structure, or be in compliance with the laws of this state;

(6) the *entities* [~~associations~~] proposing the plan have not furnished all of the information pertinent to the application reasonably requested by the Commissioner; or

(7) the *entities* [~~associations~~] proposing the plan are not acting in good faith.

SECTION 13. The Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes) is amended by adding Sections 5.07 and 5.08 to read as follows:

Sec. 5.07. INVESTMENT WITHIN ASSOCIATION'S LOCAL SERVICE AREA. (a) Each association shall maintain in its portfolio at least 15 percent of its local service area deposits in the following categories of assets and investments:

(1) first and second lien residential mortgage loans or foreclosed residential mortgage loans originated from within the association's local service area;

(2) home improvement loans;

(3) interim residential construction loans;

(4) mortgage-backed securities secured by loans from within the association's local service area; and

(5) loans for community reinvestment purposes.

(b) The commissioner shall define an applicant's local service area at the time of its incorporation or upon application within 180 days of the effective date of this legislation. Unless otherwise agreed to by the commissioner and the applicant, the applicant may rely on this definition for the duration of the applicant's corporate existence as an association.

(c) The commissioner and the finance commission shall adopt rules to implement this section. The rules shall define the categories of loans and investments described in Subsection (a) of this section. The commissioner may grant certain limited-term waivers from the requirements of Subsection (a) of this section if quality loans in the categories described in that subsection are not available from within the association's local service area.

Sec. 5.08. CONVERSION APPLICATION PROCESS. An application to convert an institution to a state savings bank shall be processed pursuant to the Texas Savings Bank Act.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 4, 1993, by a non-record vote; passed by the Senate on May 30, 1993: Yeas 30, Nays 0, 1 present, not voting.

Approved June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.