

CHAPTER 8

S.B. No. 297

AN ACT

relating to certain sales of assets of a state bank.

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

SECTION 1. Chapter VIII, The Texas Banking Code of 1943 (Article 342-801 et seq. Vernon's Texas Civil Statutes), is amended by adding Article 3a to read as follows

Art. 3a. SALE OF CERTAIN ASSETS**Sec. 1.** *The board of directors of a state bank, with the approval of the Commissioner, may cause the bank to sell all or a substantial portion of the bank's assets without shareholder approval if:**(1) the Commissioner, through examination, finds that the interests of depositors and creditors of the bank are seriously jeopardized because of the bank's insolvency or imminent insolvency and that it is in the best interests of the depositors and creditors that certain assets of the bank be sold; and**(2) the Federal Deposit Insurance Corporation or its successor has expressly consented to and approved the transaction and has agreed to provide assistance to the prospective buyer under 12 U.S.C. Section 1823(c) or a comparable provision of law.***Sec. 2.** *A sale under this article must include an assumption and promise by the buyer to pay or otherwise discharge:**(1) all of the bank's liabilities to depositors;**(2) all of the bank's liabilities for salaries of the bank's employees incurred before the date of the sale; and**(3) the obligations incurred by the Commissioner and fees and assessments due to the Department arising out of the supervision of the bank or the sale.***Sec. 3.** *This article does not affect the right of the Commissioner to take any other appropriate action permitted by Article 1a or 3 of this chapter or any other provision of this code.*

SECTION 2. Article 4a, Chapter VIII, The Texas Banking Code of 1943 (Article 342-804a, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 4a. PRIORITY OF CLAIMS—PAYMENT. *On liquidation of a state bank or on execution of a purchase of certain assets and assumption of certain liabilities of a state bank under Article 3a of this chapter, claims for payment against that state bank have the following priority:**(1) obligations incurred by the Commissioner, fees and assessments due to the Department, and expenses of liquidation, including any taxes due, all of which may be covered by a proper reserve of funds;**(2) claims of depositors having an approved claim against the general liquidating account of the bank;**(3) claims of salaried employees of the bank for salaries that are earned but unpaid at the time the bank is closed or purchased under Article 3a of this chapter;**(4) claims of general creditors having an approved claim against the general liquidating account of the bank;**(5)(4) claims otherwise proper that were not filed within the time prescribed by this Code;**(6)(5) approved claims of subordinated creditors; and**(7)(6) claims of stockholders of the bank.***SECTION 3.** This Act applies only to a purchase of assets and assumption of liabilities executed on or after the effective date of this Act. A purchase of assets and assumption of liabilities executed before the effective date of this Act is governed by the law in effect when the purchase of assets and assumption of liabilities were executed, and that law is continued in effect for that purpose.

SECTION 4. 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 the Senate on February 17, 1987, by the following vote: Yeas 30, Nays 0.

Passed the House on March 12, 1987, by the following vote: Yeas 128, Nays 2, one present not voting.