

BILL ANALYSIS

C.S.S.B. 1900
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that the Department of Savings and Mortgage Lending (SML) lacks equivalent authority to the Texas Department of Banking regarding the oversight of third-party service providers to state savings banks. Furthermore, state law governing SML includes several outdated provisions, some of which actively impede commerce. There have been calls to update these provisions to ensure Texas commerce is operating efficiently and better reflects modern practices. C.S.S.B. 1900 seeks to address this issue by revising provisions relating to the regulatory authority of the savings and mortgage lending commissioner and providing for the collection of certain fees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1900 amends the Finance Code to give the savings and mortgage lending commissioner, on receipt of an application for change of control of a savings bank, the option to publish certain information relating to the application in a newspaper of general circulation that is printed in English in the county in which the bank is to have its principal office as an alternative to submitting the information to the Texas Register.

C.S.S.B. 1900 authorizes the commissioner to regulate and examine the following activities and services to the same extent as if they were performed by a state savings bank on its own premises:

- the activities of a state savings bank affiliate; and
- the services or activities of a third-party service provider that a state savings bank or state savings bank affiliate has contracted for or otherwise arranged to be performed on behalf of the bank or affiliate.

The bill authorizes the commissioner to collect a fee from an examined third-party service provider or affiliate in connection with each examination to cover the examination cost or to collect that fee from the state savings banks that use the examined third-party service provider. For purposes of the regulation and examination of these entities, a third-party service provider or state savings bank affiliate does not include a company or firm in which ownership or membership is limited to individuals and conditioned by law on the existence and maintenance of professional licensing.

C.S.S.B. 1900 authorizes the commissioner, in order to promote regulatory efficiency, to accept the results of an examination conducted in the preceding 24 months of a third-party service provider or affiliate by a federal or state financial services regulatory agency or by a member agency of the Federal Financial Institutions Examination Council, or its successor agency, instead of conducting the commissioner's own examination of the provider or affiliate. The bill expressly prohibits this authorization from being construed as limiting or restricting the commissioner from participating in an examination of a third-party service provider or affiliate conducted by any such agency.

C.S.S.B. 1900 subjects a third-party service provider that refuses to submit to examination or to pay an assessed fee for examination to an enforcement action under Finance Code provisions governing the supervision and regulation of savings banks. With respect to such a refusal to submit to examination, the commissioner may notify all state savings banks of the refusal and warn that continued use of the third-party service provider may constitute an unsafe and unsound banking practice.

C.S.S.B. 1900 authorizes the commissioner to do the following with respect to an examination of a holding company and each of its subsidiaries:

- examine a holding company that controls a state savings bank to the same extent as if the company were a state savings bank; and
- bring an enforcement action under the applicable Finance Code provisions against a holding company that controls a state savings bank or against another person that violates or participates in a violation of the Texas Savings Bank Act, certain agreements filed with the commissioner, a Finance Commission of Texas rule, or an order issued by the commissioner under the act, as if the holding company were a state savings bank.

The bill provides for the applicability of the grounds, procedures, and effects of such an enforcement action to a holding company and its officers, directors, employees, or certain shareholders or other affiliated individuals in the same manner as they apply to a state savings bank and those persons with respect to a state savings bank. The bill subjects a state savings bank that is controlled by a holding company that is not a Texas holding company to all state laws that are applicable to state savings banks that are controlled by Texas holding companies.

C.S.S.B. 1900 removes the requirement for an applicant for a residential mortgage loan company license or a credit union subsidiary organization license to maintain a physical office in Texas and repeals the requirement for a residential mortgage loan company to maintain a physical office in Texas.

C.S.S.B. 1900 changes the manner by which amounts in the recovery fund established for reimbursement of residential mortgage loan applicants for certain acts committed by licensed loan originators may be invested and reinvested from in the same manner as funds of the Employees Retirement System of Texas to in accordance with the Public Funds Investment Act and under the prudent person standard described by the Texas Constitution. The bill repeals provisions authorizing the commissioner to use the fund for reimbursement of expenses incurred to secure and destroy abandoned loan documents, entitling the commissioner to reimbursement for certain costs and expenses incurred in managing the fund, and authorizing the commissioner to use a surplus balance of the fund for offsetting certain expenses relating to the Nationwide Mortgage Licensing System and Registry.

C.S.S.B. 1900 repeals the following provisions of the Finance Code:

- Sections 156.212(a) and (a-1);
- Sections 156.501(d) and (f); and
- Section 156.502(b).

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1900 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed established that a state savings bank affiliate, for purposes of the bill's provisions on the regulation and examination of certain related entities, does not include a company in which ownership or membership is limited to individuals and conditioned by law on the existence and maintenance of professional licensing, the substitute establishes that a third-party service provider or state savings bank affiliate does not include for those purposes a company or firm in which ownership or membership is so limited and conditioned.