

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 1 OF 47

TITLE 7. BANKING AND SECURITIES

**PART 4. DEPARTMENT OF SAVINGS
AND MORTGAGE LENDING**

CHAPTER 75. APPLICATIONS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), proposes to repeal the following rules in 7 Texas Administrative Code (TAC) Chapter 75: Subchapter A, §§75.1 - 75.3, 75.5 - 75.7, 75.9, 75.10; Subchapter C, §§75.31, 75.34, and 75.35; Subchapter D, §§75.83 - 75.86 and 75.90; and Subchapter E, §75.121, 75.123, and §75.125. The commission further proposes new rules concerning the same or similar subject matter in 7 TAC Chapter 75: Subchapter A, §§75.1 - 75.3, 75.6, and 75.10; Subchapter C, §75.31 and §75.35; Subchapter D, §75.83 and §75.90; Subchapter E, §75.123; and new Subchapter F, §§75.201 - 75.204. The commission further proposes amendments to existing rules in 7 TAC Chapter 75, as follows: Subchapter A, §75.8; Subchapter B, §§75.25 - 75.27; Subchapter C, §§75.32, 75.33, 75.36, 75.38, 75.39, and 75.41; Subchapter D, §§75.81, 75.82, 75.87- 75.89, and 75.91; and Subchapter E, §§75.122, 75.124, 75.126, and 75.127. This proposal and the rules as repealed, amended, or added as new rules by this proposal are referred to collectively as the "proposed rules."

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 75 partially implement Finance Code Subtitle C, the Texas Savings Bank Act. The proposed rules were identified during the department's periodic review of 7 TAC Chapter 75

conducted pursuant to Government Code §2001.039.

Changes Concerning Additional Offices

Finance Code §92.063 requires a savings bank to obtain the approval of the department's commissioner (commissioner) in order to establish an office other than the savings bank's home office approved under its banking charter. Existing §75.31, among other things, reasserts the requirements of Finance Code §92.063. The proposed rules, if adopted, would repeal and replace existing §75.31. Proposed new §75.31 (repealed and replaced), at subsection (e), contains a list of activities that, when performed at a location other than the home or a branch office of a savings bank, is deemed by rule not to constitute an additional office of the savings bank requiring prior approval of the commissioner to establish. Existing §75.32, concerning Types of Additional Offices, describes specific types of additional offices other than a home or a branch office that are recognized by the commissioner and require the commissioner's prior approval to establish. Existing §75.32(a) (implied) is amended to eliminate loan production offices, administrative offices, and deposit production offices as "additional offices" for purposes of the Texas Savings Bank Act, to correspond with the activities typically performed at these offices becoming sanctioned to be performed at a location other than an approved home or branch office as provided by new §75.31 (repealed and replaced). Other sanctioned activities in new §75.31 (repealed and replaced) include: the operation of automated or remote banking equipment such as ATMs; advertising; the operation of information technology equipment; participation at trade association

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 2 OF 47

and community events; and the provision of customer service ancillary to banking functions. Proposed new §75.31 (repealed and replaced) requires a savings bank seeking to permanently close an approved office to comply with the notice requirements of federal law and provide the department with a copy of the notice required by federal law. Proposed new §75.31 (repealed and replaced) also clarifies that upon closure of the office any prior approval to have opened such office is deemed revoked and a savings bank seeking to reopen such office must seek new approval in order to do so.

Changes Concerning the Selling of Assets

Under existing §75.81, concerning Reorganization, Merger, Consolidation or Purchase and Assumption Transaction, sale of a savings bank's assets made "in bulk [and not] in the ordinary course of business" constitutes a purchase and assumption transaction under the rule, requiring an application filed with and approval obtained from the commissioner. The proposed rules, if adopted, would amend §75.81 such that the selling of assets in this fashion is no longer considered to constitute a purchase and assumption transaction under the rule.

Changes Concerning Application Procedures

The proposed rules make various changes concerning how applications are filed with the commissioner. The proposed rules, if adopted, would create a new Subchapter F, concerning General Provisions, designed to contain requirements of general applicability in the chapter. Existing §75.121, concerning Definitions, containing definitions applicable to the entirety of Chapter 75, is repealed and

its subject matter addressed by new Subchapter E, §75.201, concerning Definitions. Proposed new §75.201 would largely reconstitute the definitions in existing §75.121, however, new definitions are added for the terms "FDIC" and "managing officer," as that term is used in Finance Code §92.055. The existing rules in Chapter 75 provide that for most application types the applicant must publish a public notice of the application in a newspaper of general circulation in the county or counties affected by the relief sought by the application. A new §75.203 is added in new Subchapter F to establish uniform requirements for making such notices. The existing rules for each application type are also changed (amended, or by repeal and replacement of the rule) to clarify and establish by rule the county or counties where the public notice must be published.

Changes Concerning Hearings on Applications

Existing §75.10, concerning Change of Name, §75.33, concerning Branch Office Applications, §75.35, concerning Mobile Facilities, §75.38, concerning Change of Home or Branch Office Location, and §75.83, concerning Notice of Hearing (reorganization, merger, or consolidation), create processes and procedures governing how hearings are conducted for each application type addressed by each such rule by referring to and adopting the processes and procedures governing applications for a savings bank charter, contained in existing Chapter 75, Subchapter A. The proposed rules, if adopted, would establish separate processes and procedures specific to each such rule rather than by adopting by reference the processes and procedures applicable to

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 3 OF 47

applications for a saving bank charter. Existing §75.7, concerning Motions for Rehearing, which establishes certain timelines for a motion for rehearing made pursuant to Finance Code §91.006, is repealed, and its subject matter addressed by new Subchapter F §75.204, concerning Motions for Rehearing. Proposed new §75.204 also extends the time period for filing a reply to a motion for hearing from 25 days after the date the order was signed under existing §75.7, to 30 days after the date the order was signed.

Other Modernization and Update Changes

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language to improve clarity and readability; removing unnecessary or duplicative provisions; and updating terminology.

Summary of Changes

The proposed rules include repeals, amendments to existing rules and new rules in Subchapter A, Applications.

The proposed rules, if adopted, would repeal existing §75.1, concerning Application for Permission to Organize a State Savings Bank, and simultaneously replace it with proposed new §75.1, concerning Application for a Savings Bank Charter. Proposed new §75.1 differs from the requirements of existing §75.1 by clarifying that an application for a savings bank charter must include any information deemed by the commissioner to be necessary or prudent to allow the commissioner to determine the matters set forth in Finance Code §92.058. Proposed new §75.1 further differs from the

requirements of existing §75.1 by eliminating the language of existing subsection (b), requiring an applicant for a savings bank charter to utilize the department's current form for making such application, and advising how to obtain such application form, as being unnecessary, particularly in consideration of proposed new §75.202, concerning Application Filing Requirements, included in the proposed rules which, if adopted, would require that all applications be made utilizing the current form for the application prescribed by the commissioner. (Changes Concerning Application Procedures). Proposed new §75.1 further differs from the requirements of existing §75.1 by clarifying that a hearing on an application for a savings bank charter is not necessarily required. (Changes Concerning Hearings on Applications.) Proposed new §75.1 further differs from the requirements of existing §75.1 by: capitalizing the term "commissioner" to improve readability; using the simpler and more commonly used terms "must" and "will" instead of the term "shall"; and eliminating the language of existing subsection (d), requiring the commissioner to conduct an investigation of the application, as being unnecessary and duplicative of the requirements of Finance Code Subtitle C, without providing additional clarity or guidance. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would repeal existing §75.2, concerning Hearing on Charter Application, and simultaneously replace its subject matter with proposed new §75.3, concerning Hearing on Charter Application. Proposed new §75.3 differs from the requirements of existing §75.2 by eliminating the language contained in existing subsection (c), requiring an applicant

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 4 OF 47

for a savings bank charter to amend the application in the event there is a material change in the underlying facts for the application, as being unnecessary, particularly in consideration of proposed new §75.202, concerning Application Filing Requirements, included in the proposed rules which, if adopted, would require all applications to be amended and supplemented as appropriate. (Changes Concerning Application Procedures.) Proposed new §75.3 further differs from the requirements of existing §75.2 by eliminating the language contained in existing subsection (b), discussing certain procedural requirements concerning a hearing on a charter application, and instead, proposed new §75.3, cites to and invokes the procedural requirements of the commission concerning contested cases set forth in 7 TAC Chapter 9. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.3, concerning Publication of Notice of Charter Application, and simultaneously replace its subject matter with proposed new §75.2, concerning Publication of Notice of Charter Application. Proposed new §75.2 differs from the requirements of existing §75.3 by clarifying that an application for a savings bank charter is deemed to be a complete application for purposes of Finance Code §92.057 when it is determined by department staff to be complete and accepted for filing in accordance with proposed new §75.202, concerning Application Filing Requirements, which, if adopted, would require department staff to contact the applicant and notify them as to whether or not department staff determines the application to be complete, and if not complete, to specify the

information required to render the application complete. Proposed new §75.2 further differs from the requirements of existing §75.3 by clarifying that the notice of charter application the applicant is required to publish under the requirements of existing §75.3 is deemed to be the public notice of the commissioner for purposes of Finance Code §92.057. Other requirements for effecting such public notice in existing §75.2, meanwhile, are addressed in proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures.) Proposed new §75.2 further differs from the requirements of existing §75.3 by using the simpler and more commonly used terms "must" and "will" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would repeal existing §75.5, concerning Publication of Notice of Charter Application. The current requirement of existing §75.5 for an applicant for a savings bank charter to file with the commissioner proof of publication of a public notice concerning such application is addressed by proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.6, concerning Time of Decision on Charter Application, and simultaneously replace its subject matter with proposed new §75.6, concerning Time of Decision on Charter Application. Proposed new §75.6 differs from the requirements of existing §75.6 by adding language to clarify that a hearing on the application is not necessarily

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 5 OF 47

required. Proposed new §75.6 further differs from the requirements of existing §75.6 by adding language to clarify when the hearing on the application is deemed to have ended for purposes of Finance Code §92.058, in order to allow for issuance of the proposal for decision by the hearings officer following such hearing. Proposed new §75.6 further differs from the requirements of existing §75.6 by adding language to clarify that, to the extent a hearing on the application is not required, the 30-day time period for the commissioner to render a decision on such application begins after the date the time period to request a hearing on such application lapsed. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.7, concerning Motions for Rehearing. Existing §75.7 imposes requirements concerning a motion for rehearing filed pursuant to Finance Code §91.006, including establishing to whom a copy of the motion must be sent, timelines for responding to such motion, and the date by which the motion is deemed to be overruled by the commissioner by operation of law. The subject matter of existing §75.7 is addressed by proposed new §75.204, concerning Motions for Rehearing, included in the proposed rules and discussed *infra*. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would amend existing §75.8, concerning Identification of Office Site; Temporary Location and Community, by: capitalizing the term "commissioner" to improve readability; using the simpler and more commonly used terms "must" and "will" instead of the term "shall"; and restating other language for

clarity. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would repeal existing §75.9, concerning Notice to Applicants. Existing §75.9 requires the commissioner to issue a written notice to a person that has filed an application to notify the applicant whether or not the application is complete, and if not complete, to specify the information required to render the application complete. The subject matter of existing §75.9 is addressed by proposed new §75.202, concerning Application Filing Requirements, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures.)

The proposed rules, if adopted, would repeal existing §75.10, concerning Change of Name, and simultaneously replace its subject matter with proposed new §75.10, concerning Change of Name Application. Proposed new §75.10 differs from the requirements of existing §75.10 by adding language to clarify that a public notice of the application must be effected by the applicant and published in the county where the savings bank has its home office, and invokes the requirements for such notices established by proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures.) Proposed new §75.10 further differs from the requirements of existing §75.10 subsection (c) by imposing a 10-day deadline for requesting a hearing on an application for a savings bank to change its name. Proposed new §75.10 further differs from the requirements of existing §75.10 by adding language to clarify what persons are affected by a proposed name change for purposes of

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 6 OF 47

Finance Code §92.063 and eligible to protest an application for such change. Proposed new §75.10 further differs from the requirements of existing §75.10 by imposing a deadline (60 days) by which the commissioner must set a hearing on the application if one is requested. Proposed new §75.10 further differs from the requirements of existing §75.10 by imposing a deadline (30 days) by which the commissioner must render a decision on the application. (Changes Concerning Hearings on Applications.)

The proposed rules include amendments to existing rules in Subchapter B, Expedited Applications.

The proposed rules, if adopted, would amend existing §75.25, concerning Eligible Institution. Subsection (a) (implied) is amended to add language clarifying that a savings bank is eligible to file an application for consideration on an expedited basis only if it has a satisfactory compliance rating. Existing §75.25 is further amended by: correcting a citation to federal law due to a change in such federal law; capitalizing the term "department" to improve readability; and restating other existing language to improve clarity. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.26, concerning Expedited Applications. Subsection (b), paragraph (2) is amended to clarify that, in order to demonstrate it is poised to be well capitalized in connection with transaction giving rise to the application, the savings bank must provide financial information and projections for the first four quarters following the effective date of such transaction. Subsection (b), paragraph (5) is amended to clarify how

the applicant must effect service of a public notice of the expedited application, and invokes the requirements of proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. Subsection (c) is amended to clarify that a decision on the application will be made within 30 days after the application is complete and has been accepted for filing for purposes of proposed new §75.202, concerning Application Filing Requirements, included in the proposed rules and discussed *infra*. Subsection (d) is amended to clarify that the applicant bears the burden to provide the information necessary for the commissioner to render a decision on the application, including the burden to establish it is eligible to file the application on an expedited basis. (Changes Concerning Application Procedures.) Existing §75.26 is further amended by: capitalizing the term "commissioner" to improve readability; and correcting a citation to federal law due to a change in such federal law. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.27, concerning Denial of Expedited Treatment. Subsection (b) is amended to clarify that, to the extent expedited treatment is denied by the commissioner, the commissioner will notify the applicant of the denial within 15 days after the date the application is complete and has been accepted for filing for purposes of proposed new §75.202, concerning Application Filing Requirements, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures.)

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 7 OF 47

The proposed rules include repeals, amendments to existing rules, and new rules in Subchapter C, Additional Offices.

The proposed rules, if adopted, would repeal existing §75.31, concerning Establishment and Operation of Additional Offices, and simultaneously replace its subject matter with proposed new §75.31, concerning Approval of Offices Required; Closing an Office; Activities Not Requiring an Approved Office. Proposed new §75.31 differs from the requirements of existing §75.31 by adding a new subsection (e), containing a list of activities that are not required to be performed at an office approved by the commissioner. Proposed new §75.31 further differs from the requirements of existing §75.31 by imposing a new requirement for a savings bank to comply with existing requirements of federal law when closing an office, to provide the commissioner with a copy of the notice it is required to file with the appropriate federal banking agency, and to provide written confirmation within 10 days after actually closing the office. Proposed new §75.31 further differs from the requirements of existing §75.31 by adding language to clarify that a savings bank must obtain the prior written approval of the commissioner in order to establish or relocate any type of additional office, not just a branch office. (Changes Concerning Additional Offices.) Proposed new §75.31 further differs from the requirements of existing §75.31 by: capitalizing the term "commissioner" to improve readability; adding citations to the other rules in Chapter 75 governing the offices of a savings bank; and adding headings to each subparagraph to indicate its subject matter and improve readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.32, concerning Types of Additional Offices. Subsection (a) (implied) is amended to eliminate loan production offices, administrative offices, and deposit production offices as types of additional offices for purposes of Finance Code §92.063, and the remaining paragraphs in subsection (a) are renumbered accordingly. (Changes Concerning Additional Offices.) Existing §75.32 is further amended to use the simpler and more commonly used terms "must" and "will" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.33, Branch Office Applications. Subsection (a) is amended to eliminate language adopting by reference the procedure for effecting a public notice in connection with an application for a savings bank charter, and instead, language establishing the procedure for effecting such notice in connection with a branch office application is set forth in the rule, including by invoking the requirements of proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures.) The proposed amendments to subsection (a) further eliminate language adopting by reference the procedures applicable to a hearing of an application for a savings bank charter, and instead, language establishing procedures for a hearing on a branch office application are set forth in the rule. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.34, concerning Loan Production Offices (Loan Offices), Administrative Offices, and Deposit Production Offices, in

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 8 OF 47

connection with the proposed amendments to §75.32, included in the proposed rules, to eliminate such offices as types of additional offices for purposes of Finance Code §92.063. (Changes Concerning Additional Offices.)

The proposed rules, if adopted, would repeal existing §75.35, concerning Mobile Facilities, and simultaneously replace its subject matter with proposed new §75.35, concerning Mobile Facilities. Proposed new §75.35 differs from the requirements of existing §75.35 by eliminating language in subsection (a) adopting by reference the procedure for effecting a public notice in connection with an application for a savings bank charter, and instead, language establishing the procedure for effecting such notice in connection with an application for a mobile facility is set forth in the rule, including by invoking the requirements of proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures). The proposed amendments to subsection (a) further eliminate language adopting by reference the procedures applicable to a hearing of an application for a savings bank charter, and instead, language establishing procedures for a hearing on an application for a mobile facility is set forth in the rule. (Changes Concerning Hearings on Applications.) Proposed new §75.35 further differs from the requirements of existing §75.35 by: using the simpler and more commonly used terms "must" and "will" instead of the term "shall"; and restating other existing language to improve clarity. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.36, concerning Designation as and Exemption for Supervisory Sale. The title of the section is renamed Exemption for Supervisory Sale to remove unnecessary language. Existing §75.36 is further amended by: capitalizing existing headings to improve readability; capitalizing the term "commissioner" to improve readability; referring to the Federal Deposit Insurance Corporation by its acronym; and using the simpler and more commonly used terms "must" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.38, concerning Change of Home or Branch Office Location. Subsection (d) is amended to eliminate language adopting by reference the procedure for effecting a public notice in connection with an application for a savings bank charter, and instead, language establishing the procedure for effecting such notice in connection with an application for a savings bank to change a home or additional office location is set forth in the rule, including by invoking the requirements of proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. Subsection (d) is further amended to eliminate language adopting by reference the procedures applicable to a hearing on an application for a savings bank charter, and instead, language establishing procedures for a hearing on an application to change a savings bank's home or an additional office is set forth in the rule. (Changes Concerning Hearings on Applications.) The title of the section is renamed Change of Home or Additional Office Location to clarify the rule's applicability to all offices of a savings bank that constitute a home office or

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 9 OF 47

additional office for purposes of Finance Code §92.063 and requiring approval of the commissioner. Subsections (a) and (b) are further amended to clarify such applicability, including by inserting a reference to 7 TAC §75.32, governing the types of offices recognized by the commissioner as constituting an additional office for purposes of Finance Code §92.063. Existing §75.38 is further amended by: adding headings to some subsections to improve readability; capitalizing the term "commissioner" to improve readability; and using the simpler and more commonly used term "must" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.39, concerning Temporary Closing of Additional Offices. Subsection (a) (implied) is amended to confer authority on the commissioner to extend the time period for a savings bank to reopen an additional office that has closed. Subsection (a) is further amended to clarify that, to the extent the savings bank fails to reopen the office within the applicable time allotted, prior approval from the commissioner to have opened the additional office is deemed revoked, including by inserting a reference to §75.31, governing the process for seeking approval of the commissioner to establish an additional office. Subsection (a) is further amended to clarify and provide additional notice of the requirements for permanently closing an office in accordance with proposed new §75.31 (repealed and replaced), concerning Approval of Offices Required; Closing an Office; Activities Not Requiring an Approved Office, included in the proposed rules and discussed *supra*. Subsection (a) is further amended to impose a time period (10 days) for providing the

commissioner with notice of the saving bank reopening such office. (Changes Concerning Additional Offices.) Existing §75.39 is further amended by: capitalizing the term "commissioner" to improve readability and using the simpler and more commonly used term "must" instead of the term "shall"; and capitalizing the term "commissioner" to improve readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.41, concerning Offices in Other States or Territories. Subsection (a) (implied) is amended to eliminate language concerning a savings bank opening a loan production office, in conjunction with proposed new §75.31 (repealed and replaced), concerning Approval of Offices Required; Closing an Office; Activities Not Requiring an Approved Office, included in the new rules and discussed *supra*. (Changes Concerning Additional Offices.) Existing §75.41 is further amended by: using the simpler and more commonly used term "must" instead of the term "shall"; capitalizing the term "commissioner" to improve readability; including a specific reference to §75.33, concerning Branch Office Applications; and restating other language to improve readability. (Other Modernization and Update Changes.)

The proposed rules include repeals, amendments to existing rules, and new rules in Subchapter D, Reorganization, Merger, Consolidation, Conversion, Purchase, and Assumption and Acquisition. The title for Subchapter D is renamed Reorganization, Merger, Consolidation, Conversion, Purchase and Assumption or Acquisition to improve clarity. (Other Modernization and Update Changes.)

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 10 OF 47

The proposed rules, if adopted, would amend existing §75.81, concerning Reorganization, Merger, Consolidation or Purchase and Assumption Transaction, by restating language to improve readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.82, concerning Form and Content of Application. Subsection (a) is amended to eliminate the requirement that the form for the application prescribed by the department bear a particular title. Subsection (a) is further amended to eliminate the requirement that the application be signed and sworn to before an officer of the savings bank, and instead, language is inserted to require that the application be signed and sworn to before a notary. The language contained in subsection (b), requiring the department to provide a form for the application and providing information that the form is available at the department's office, is eliminated as being unnecessary, and thereby causing subsection (a) to become implied. (Changes Concerning Application Procedures.) Existing §75.82 is further amended by using the simpler and more commonly used term "must" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would repeal existing §75.83, concerning Notice and Hearing, and simultaneously replace its subject matter with proposed new §75.83, concerning Notice and Hearing. Proposed new §75.83 differs from the requirements of existing §75.35 by eliminating language in subsection (a) adopting by reference the procedure for effecting a public notice in connection with an application for a savings bank charter, and instead, language

establishing the procedure for effecting such notice in connection with an application for reorganization, merger, or consolidation of a savings bank, or a purchase and assumption transaction by a savings bank is set forth in the rule, including by invoking the requirements of proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Application Procedures.) Proposed new §75.83 further differs from the existing requirements of §75.83 by eliminating language adopting by reference the procedures applicable to a hearing on an application for a savings bank charter, and instead, language establishing procedures for a hearing on an application for reorganization, merger, or consolidation of a savings bank, or a purchase and assumption transaction by a savings bank is set forth in the rule (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.84, concerning Publication. The current requirement of existing §75.84 for an applicant for reorganization, merger, or consolidation of a savings bank, or a purchase and assumption transaction by a savings bank to file with the commissioner proof of publication of a public notice concerning such application is addressed by proposed new §75.203, concerning Public Notice of Application, included in the proposed rules and discussed *infra*. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.85, concerning Time of Decision. Existing §75.85 adopts by reference the time period for which the commissioner must make a decision on an application for reorganization, merger, or

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 11 OF 47

consolidation of a savings bank, or a purchase and assumption transaction by a savings bank. The subject matter of existing §75.85 is addressed in proposed new §75.83, concerning Notice and Hearing, included in the proposed rules and discussed *supra*. (Changes Concerning Hearings on Applications.)

The proposed rules, if adopted, would repeal existing §75.86, concerning Appeal, as being unnecessary and duplicative of the requirements of Finance Code Subtitle C, and Government Code Chapter 2001, without providing additional clarity or guidance. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.87, concerning Designation as and Exemption for Supervisory Merger. The title for the section is renamed Exemption for Supervisory Merger for simplicity and to remove unnecessary language. Existing §75.87 is further amended by: capitalizing the terms "commissioner" and "department" to improve readability; referring to the Federal Deposit Insurance Corporation by its acronym; using the simpler and more commonly used term "will" instead of the term "shall"; and correcting a reference to the various rules sections contained in Chapter 75 Subchapter D to correctly recite the titles of such sections, and to eliminate a reference to a section that is simultaneously proposed for repeal and included in the proposed rules. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.88, concerning Acquisitions Involving Financial Institutions in Other States or Territories, by: capitalizing the terms "commissioner" and "department"; using the simpler and more commonly used

term "must" instead of the term "shall"; and restating other language to improve clarity and readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.89, concerning Reorganization, Merger or Conversion to Another Financial Institution Charter. Subsection (d) is amended to clarify that a request for a savings bank to convert to another financial institution charter is deemed to be approved at the time the filing is complete and has been accepted for filing by the department in accordance with proposed new §75.202, concerning Application Filing Requirements, included in the proposed rules and discussed *infra*. Subsection (d) is further amended to clarify that a savings bank converting to another financial institution charter must return its certificate to operate as a Texas-chartered savings bank in order to be released from the requirement to pay annual assessments to the department. (Changes Concerning Application Procedures.) Existing §75.89 is further amended by: capitalizing the terms "commissioner" and "department" to improve readability; and using the simpler and more commonly used term "will" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would repeal existing §75.90, concerning Conversion into a Savings Bank and simultaneously replace its subject matter with proposed new §75.90, concerning Conversion into a Savings Bank. Proposed new §75.90 differs from the requirements of existing §75.90 by eliminating, in existing subsection (b), the requirement that the plan of conversion must be approved by at least a two-thirds majority of the members, effectively meaning that,

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 12 OF 47

unless the savings bank's governing documents determine otherwise, approval need only be made by a simple majority of the members. Proposed new §75.90 further differs from the requirements of existing §75.90 by eliminating the requirement, in existing subsection (b), for each proposed director of the resulting savings bank to execute the proposed bylaws as an incorporator of the savings bank. (Changes Concerning Application Procedures.) Proposed new §75.90 further differs from the requirements of existing §75.90 by adding language to clarify when the hearing on the application is deemed to have been completed for purposes of Finance Code §92.304, in order to allow for the issuance of the proposal for decision by the hearing officer following such hearing. (Changes Concerning Hearings on Applications.) Proposed new §75.90 further differs from the requirements of existing §75.90 by: utilizing headings for each subsection to indicate its subject matter and improve readability; capitalizing the terms "commissioner" and "department" to improve readability; and using the simpler and more commonly used term "will" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.91, concerning Mutual to Stock Conversions by: replacing the term "articles of incorporation" with updated terminology (certificate of formation) from the Business & Commerce code; capitalizing the terms "commissioner" and "department" to improve readability; and using the simpler and more commonly used term "will" instead of the term "shall." (Other Modernization and Update Changes.)

The proposed rules includes repeals, amendments to existing rules, and new rules in Subchapter E, Change of Control.

The proposed rules, if adopted, would repeal existing §75.121, concerning Definitions, which contains definitions of general applicability in Chapter 75. As discussed in greater detail *infra*, the proposed rules simultaneously propose a new 7 TAC §75.201, concerning Definitions, which largely restates and reconstitutes the definitions in existing §75.121. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.122, Acquisition of a Savings Bank. Existing §75.122 is amended by: capitalizing the terms "commissioner" and "department" to improve readability; and eliminating much of the language in subsection (a) (implied), paragraph (4), which recites the statutory requirements of Finance Code §92.556 and §92.557, without providing additional guidance or clarity, and is therefore duplicative and unnecessary. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would repeal existing §75.123, Hearings, and simultaneously replace its subject matter with proposed new §75.123, concerning Notice and Hearing. Proposed new §75.123 differs from the existing requirements of §75.123 by formally adopting by rule an existing process and procedure for an applicant for change of control of a savings bank to effect a public notice of the application, a requirement similar to most other application types filed with the commissioner, including by invoking the requirements of proposed new §75.203, concerning Public Notice of Application, included in the proposed rules

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 13 OF 47

and discussed *infra*. (Changes Concerning Application Procedures.) Proposed new §75.123 further differs from the requirements of existing §75.123 by clarifying that the notice of the change of control application the applicant is required to publish, as described in the previous sentence, is deemed to be the public notice of the commissioner for purposes of Finance Code §92.557. Proposed new §75.123 further differs from the requirements of existing §75.123 by adding language to clarify that the time period (30 days) for the decision of the commissioner on a change of control application for which a hearing was required does not begin until the hearings officer has issued his or her proposal for decision and time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed. (Changes Concerning Hearings on Applications.) Proposed new §75.123 further differs from the existing requirements of §75.123 by: eliminating the language in existing subsections (a) - (e) as being duplicative of the requirements of Finance Code Subtitle C, without providing additional clarity or guidance. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.124, concerning Retention of Control, by capitalizing the term "commissioner" to improve readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.125, concerning Application for Approval of the Acquisition of Control of a Savings Bank, by capitalizing the term "commissioner" to improve readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.126, concerning Abeyance of Other Applications, by capitalizing the term "commissioner" to improve readability. (Other Modernization and Update Changes.)

The proposed rules, if adopted, would amend existing §75.127, concerning Exempt Transactions, by capitalizing the term "commissioner" to improve readability. (Other Modernization and Update Changes.)

The proposed rules include new rules contained in a new Subchapter E, General Provisions.

The proposed rules include proposed new §75.201, concerning Definitions. Proposed new §75.201 adopts definitions applicable to Chapter 75, largely restating and reconstituting those contained in existing §75.121 proposed for repeal, included in the proposed rules and discussed *supra*. Proposed new §75.201 differs from the requirements of existing §75.121 by adding definitions for the terms "FDIC" and "managing officer." (Changes Concerning Application Procedures.)

The proposed rules include proposed new §75.202, concerning Application Filing Requirements. Proposed new §75.202 contains procedural requirements of general applicability concerning applications and other requests for relief filed with the commissioner. Proposed new §75.202 includes, among other things, the following requirements: when filing an application, a requirement to utilize the current form for the application prescribed by the commissioner; after an application is filed, a requirement for department staff to contact the applicant and notify them as to whether or not department

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 14 OF 47

staff determines the application to be complete, and if not complete, to specify the information required to render the application complete; after filing an application, a requirement for the applicant to supplement or amend the application as needed. (Changes Concerning Application Procedures.)

The proposed rules include proposed new §75.203, concerning Public Notice of Application. Proposed new §75.203 creates uniform requirements for effecting a public notice of an application if required by the department's rules governing such application. (Changes Concerning Application Procedures.)

The proposed rules include proposed new §75.204, concerning Motions for Rehearing. Proposed new §75.204 creates procedural requirements for filing a motion for rehearing under Finance Code §91.006, including a deadline for filing replies to any such motion, and establishing a date on which the motion is deemed overruled by the commissioner by operation of law. (Changes Concerning Hearings on Applications.)

Fiscal Impact on State and Local Government

Antonia Antov, director of operations for the department (director), has determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the proposed rules. The director has further determined that for the first five-year period the proposed rules are in effect, there will be no foreseeable losses or increases in revenue for local governments as a result of enforcing or administering the

proposed rules. The director has further determined that for the first five-year period the proposed rules are in effect, there will be no foreseeable losses or increases in revenue for the state or local governments as a result of enforcing or administering the proposed rules.

Public Benefits

Stephany Trotti, deputy commissioner and director of thrift regulation for the department (deputy commissioner) has determined that for each of the first five years the proposed rules are in effect the public benefit anticipated as a result of enforcing the proposed rules will be to have rules that are easier to read and understand. The proposed rules related to Changes Concerning Additional Offices and Changes Concerning the Selling of Assets will benefit the public by reducing the number of applications and other requests for relief the department receives and processes in connection with operations of a saving bank that do not typically raise supervisory concerns, allowing the department to reallocate and better utilize its resources in its examination functions to detect violations of law or other potentially unsafe or unsound practices by a savings bank, thereby better protecting those members of the public that do business with a Texas-chartered savings bank.

Probable Economic Costs to Persons Required to Comply with the Proposed Rules

The deputy commissioner has determined that for the first five years the proposed rules are in effect there are no substantial economic costs anticipated to persons required to comply with the proposed rules.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 15 OF 47

One-for-One Rule Analysis

Pursuant to Finance Code §16.002, the department is a self-directed and semi-independent agency and thus not subject to the requirements of Government Code §2001.0045.

Government Growth Impact Statement

For each of the first five years the proposed rules are in effect, the department has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning Application Procedures create a new requirement formalizing in rule an existing process and procedure for a savings bank applying to change its name to effect a public notice of the application. The proposed rules related to Changes Concerning Application Procedures further create a new requirement formalizing in rule an existing process and procedure for a person appealing the denial of an application for change of control of a savings bank to effect a public notice of the application. The proposed rules related to Changes Concerning Additional Offices create a new requirement for a savings bank to provide the commissioner with a copy of the notice it is already required to make under applicable federal law when closing an

office; (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning Application Procedures expand an existing rule requirement by requiring that a savings bank supplement their application with any information it provides to the appropriate federal banking agency in connection with the relief sought by such application. The proposed rules related to Changes Concerning Additional Offices limit an existing rule requirement by allowing a savings bank to perform certain activities at a location other than its home or a branch office, without seeking approval of the commissioner. The proposed rules related to Changes Concerning the Selling of Assets limit an existing rule requirement for a savings bank to file an application with and seek approval from the commissioner when it seeks to engage in a purchase and assumption transaction by providing that a sale of assets does not constitute such a transaction (but not eliminating prior approval for such transactions entirely). The proposed rules related to Changes Concerning Additional Offices repeal an existing rule requirement for a savings bank to obtain the approval of the commissioner prior to establishing a loan production office, administrative office, or a deposit production office. While a number of other rules are repealed under the proposed rules, the subject matter for such rules is addressed by new rules being simultaneously proposed, and as a result, no other existing rule requirements are ultimately repealed by the proposed rules; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 16 OF 47

No local economies are substantially affected by the proposed rules. As a result, preparation of a local employment impact statement pursuant to Government Code §2001.022 is not required.

Fiscal Impact on Small and Micro-Businesses, and Rural Communities

The proposed rules will not have an adverse effect on small or micro-businesses, or rural communities because there are no substantial economic costs anticipated to persons required to comply with the proposed rules. As a result, preparation of an economic impact statement and a regulatory flexibility analysis as provided by Government Code §2006.002 are not required.

Takings Impact Assessment

There are no private real property interests affected by the proposed rules. As a result, preparation of a takings impact assessment as provided by Government Code §2007.043 is not required.

Public Comments

Written comments regarding the proposed rules may be submitted by mail to Iain A. Berry, Associate General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to rules.comments@sml.texas.gov. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. CHARTER APPLICATIONS

7 TAC §§75.1 - 75.3, 75.5 - 75.7, 75.9, 75.10

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks.

This proposal affects the statutes contained in Finance Code Subtitle C, the Texas State Savings Bank Act.

§75.1.Application for Permission to Organize a State Savings Bank.

§75.2.Hearing on Charter Application.

§75.3.Publication of Notice of Charter Application.

§75.5.Filing of Proof of Publication.

§75.6.Time of Decision on Charter Application.

§75.7.Motions for Rehearing.

§75.9.Notice to Applicants.

§75.10.Change of Name.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 18, 2020.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 17 OF 47

TRD-202005632

Iain A. Berry

Associate General Counsel

Department of Savings and Mortgage
Lending

Earliest possible date of adoption: January
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For further information, please call: (512)
475-1535

7 TAC §§75.1 - 75.3, 75.6, 75.8, 75.10

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. 7 TAC §§75.1 - 75.3 and 75.6 are proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraph (2) of that subsection; Chapter 92, Subchapter B; §92.203; and §92.601(b). 7 TAC §75.8 is proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (14) of that subsection; §92.051; §92.060; and §92.058. 7 TAC §75.10 is proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters

outlined in paragraphs (2) and (14) of that subsection; and §92.063.

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.1. Application for Savings Bank Charter.

(a) The charter application and all required supporting information must be executed by the proposed incorporators of the proposed savings bank which must consist of at least five adult residents of this state and must include all of the information required by Tex. Fin. Code §92.051. The application must include a request for a corporate name to be approved by the Commissioner. The application must include the proposed home office of the savings bank, the identity and qualifications of the proposed managing officer(s), and any additional information the Commissioner deems to be necessary or prudent to enable the Commissioner to determine the matters set forth in Tex. Fin. Code §92.058.

(b) No application to incorporate a savings bank will be approved unless the application and evidence produced at a hearing, if one is required, satisfy the Commissioner that the proposed savings bank has received subscriptions for capital stock and paid-in surplus in the case of a capital stock savings bank, or pledges for savings liability and expense fund in the case of a mutual savings bank, in an amount not less than the greater of the amount required to obtain insurance of deposit accounts by the FDIC or the amount required of a national bank. No savings bank with an approved charter may open or do business as a savings bank until the Commissioner certifies that the

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 18 OF 47

Commissioner has received satisfactory proof that the amounts of capital stock and additional paid-in capital, or the savings liability and expense fund, as set forth in this section, have been received by the savings bank in cash, free of encumbrance.

§75.2.Publication of Notice of Charter Application.

A charter application is deemed to be a complete application for purposes of Tex. Fin. Code §92.057 at the time the Department notifies the applicant that the application is complete and has been accepted for filing as provided by §75.202 of this title (relating to Application Filing Requirements). Upon receipt of such notice, the proposed incorporators must publish a public notice of the charter application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published in the county where the proposed savings bank will have its home office. Such notice, when properly effected, is deemed to be the Commissioner's public notice of the application for purposes of Tex. Fin. Code §92.057.

§75.3.Hearing on Charter Application.

If a charter application is protested or a hearing on the application is otherwise requested, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title.

§75.6.Time of Decision on Charter Application.

To the extent a hearing on the charter application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. Only then will the hearing be deemed to have ended for purposes of Tex. Fin. Code §92.058. If a hearing on the charter application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by Tex. Fin. Code §92.057.

§75.8.Identification of Office Site; Temporary Location and Community.

(a) In connection with any application for a charter or for an additional office, the proposed office site must ~~shall~~ be identified with such particularity so as to exactly locate it within the community to be served.

(b) The Commissioner ~~commissioner~~ may approve opening and operating a temporary facility for an approved charter or additional office, provided that such facility is within the 1/2-mile radius of the approved permanent site and, further, provided that the operation of the temporary facility will cease immediately upon the permanent facility being completed for occupancy, but in any event no longer than 18 months, unless extended in writing by the Commissioner ~~commissioner~~.

(c) In connection with any application for a charter or for an additional office, the term "community" as used in the Texas Savings

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 19 OF 47

Bank Act means the [shall be considered to mean that] geographical area surrounding the [so situated with respect to the] proposed location within which persons would be reasonably anticipated to [that persons residing in such area could] patronize the proposed office in the ordinary course of their business.

§75.10.Change of Name Application.

(a) Application for Change of Name. A savings bank may not change its name without the prior approval of the Commissioner, and a savings bank may not operate under any name which has not been approved by the Commissioner. The Commissioner may not approve an application by a savings bank to change its name unless the Commissioner finds from the information furnished with the application, the evidence produced at the hearing, if one is required, and Department records that the proposed change of name meets the applicable requirements of the Texas Savings Bank Act, and this chapter, and does not violate other applicable law.

(b) Public Notice. An applicant seeking to change its name must publish a public notice of the application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published in the county where the savings bank has its home office.

(c) Request for Hearing; Deadline to Protest. A person affected by the proposed name change may protest or otherwise request a hearing on the change of name application as provided by Tex. Fin. Code §92.063. Any person affected by the proposed name change and desiring to protest the application or

otherwise request a hearing on the application must file a written protest with the Department within 10 days from the date the public notice was made as provided by subsection (b) of this section, otherwise, any right or opportunity by such person to protest or have a hearing on the application under Tex. Fin. Code §92.063 is deemed to be waived.

(d) Persons Affected by the Change of Name. A person is affected by a change of name for purposes of Tex. Fin. Code §92.063 only if the requested name change, if granted, would result in the savings bank's name being substantially or deceptively similar to the party alleged to be affected, or is otherwise reasonably anticipated to create confusion in the marketplace involving the party alleged to be affected. A person requesting a hearing on a change of name application must allege and provide information in support of their request indicating they are a person that might be affected by the proposed name change as provided by this section. The Commissioner in his or her sole discretion will review the request for hearing and determine if the person might be affected so as to require a hearing under Tex. Fin. Code §92.063.

(e) Hearing. If a hearing is required, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title.

(f) Time of Decision. To the extent a hearing on the application is required, the Commissioner will render a decision within

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 20 OF 47

30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by subsection (c) of this section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Iain A. Berry

Associate General Counsel

Department of Savings and Mortgage Lending

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For further information, please call: (512) 475-1535

SUBCHAPTER B. EXPEDITED APPLICATIONS

7 TAC §§75.25 - 75.27

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. 7 TAC §§75.25 - 75.27 are proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraph (2) of that subsection.

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.25. Eligible Institution.

An eligible institution is a financial institution that:

(1) is well capitalized as defined by 12 C.F.R. §324.403 [~~in 12 CFR §325.103~~];

(2) received a composite rating of either 1 or 2 as defined by the Uniform Financial Institutions Rating System (CAMELS) at the most recent examination by the Department [~~department~~] or federal regulatory agencies, and management is rated either 1 or 2;

(3) received a CRA and compliance rating of satisfactory or above at the savings bank's most recent inspection by the appropriate federal banking [~~regulatory~~] agency;

(4) (No change.)

(5) is not operating under a supervisory action of, or a plan for remedial or corrective

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 21 OF 47

~~action imposed by, [memorandum of understanding, order to cease and desist, or other state or federal supervisory enforcement order issued by] a state or federal banking [regulatory] agency.~~

§75.26. Expedited Applications.

(a) An eligible institution as defined in §75.25 of this title (relating to Eligible Institution) may file an expedited filing in lieu of an application required pursuant to §75.33 of this title (relating to Branch Office Applications), §75.35 of this title (relating to Mobile Facilities), §75.38 of this title (relating to Change of Home or Branch Office Location), or §75.81 of this title (relating to Reorganization, Merger, Consolidation or Purchase and Assumption Transaction), and simultaneously tender the required filing fee pursuant to Chapter 76, §§76.91 - 76.110 [~~§§76.91—76.99~~] of this title (relating to Fees and Charges).

(b) An expedited filing must include the following items, unless waived in writing by the Commissioner [~~commissioner~~]:

(1) (No change.)

(2) a pro forma balance sheet and income statement for all parties to the transaction, including adjustments, reflecting the proposed transaction as of the most recent quarter ended immediately prior to the filing of the application, demonstrating that the resulting state savings bank is well capitalized as defined by 12 C.F.R. §324.403, including pro forma financials for the first four quarters after the effective date of the transaction [~~in 12 CFR §325.103~~];

(3) - (4) (No change.)

(5) evidence satisfactory to the Commissioner that a public notice of the application has been published and effected as provided by §75.203 of this title (relating to Public Notice of Application), published in each county where a non-expedited application is required to be published [a copy of the public notice published in conformity with the section of this subsection that would apply had the applicant not filed an expedited filing].

(c) The Commissioner will render a decision on the expedited application within [commissioner shall approve or deny an expedited filing on or before a date that is] 30 days after the date the expedited filing is [deemed] complete and has been accepted for filing as provided by §75.202 of this title (Relating to Application Filing Requirements). The foregoing notwithstanding, the Commissioner may, at any time before the time period to render a decision on the application has expired, elect to refer the expedited application to a hearing, at which point consideration of the application will proceed in the same fashion as a non-expedited application [commissioner may, in the exercise of discretion, before the expiration of the period for decision, give the applicant written notice that the commissioner will convene a hearing to obtain evidence related to the application, and the decision will thereafter be made in accordance with §§76.71—76.73 of this title (relating to Hearings)].

(d) The applicant bears the burden to supply all material information necessary to enable the Commissioner [~~commissioner~~] to make a fully informed decision regarding the expedited filing, including but not limited to, the applicant's eligibility to make the

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 22 OF 47

application on an expedited basis in accordance with §75.25 of this title (relating to Eligible Institution).

TRD-202005634

Iain A. Berry

§75.27.Denial of Expedited Treatment.

Associate General Counsel

(a) The Commissioner [~~commissioner~~] may deny expedited filing treatment to an otherwise eligible applicant if the Commissioner determines within his or her sole discretion [~~applicant, in the exercise of discretion, if the commissioner finds~~] that the proposed transaction involves significant policy, supervisory, or legal issues; is contingent upon other statutory or regulatory approval; results in an entity that is not a financial institution; or involves an entity that is not domiciled in Texas.

Department of Savings and Mortgage Lending

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For further information, please call: (512) 475-1535

SUBCHAPTER C. HOLDING COMPANIES

(b) The Commissioner will [~~commissioner shall~~] provide written notification to the applicant within 15 days after the date the expedited filing is complete and has been accepted for filing as provided by §75.202 of this title (relating to Application Filing Requirements) [~~receipt of the application~~] if expedited filing treatment is denied, indicating the reason for denial. [~~Notification is effective when mailed by the commissioner and is not subject to appeal.~~]

7 TAC §§75.31, 75.34, 75.35

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks.

(c) A decision of the Commissioner to deny expedited treatment is final and may not be appealed.

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

§75.31.Establishment and Operation of Additional Offices.

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PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 23 OF 47

§75.34. Loan Production Offices (Loan Offices), Administrative Offices, and Deposit Production Offices.

§75.35. Mobile Facilities.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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7 TAC §§75.31 - 75.33, 75.35, 75.36, 75.38, 75.39, 75.41

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and

to protect public investment in Texas-chartered savings banks. 7 TAC §§75.31 - 75.33, 75.35, 75.36, 75.38, 75.39 and 75.41 are proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (14) of that subsection; and §92.063. 7 TAC §75.36 is also proposed under the authority of, and to implement, Finance Code §92.352.

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.31. Approval of Offices Required; Closing an Office; Activities Not Requiring an Approved Office.

(a) Approval Required. No savings bank may establish, maintain, or relocate its home office, or an additional office as provided by §75.32 of this title (relating to Types of Additional Offices), without the prior written approval of the Commissioner, except as otherwise provided by §75.38 of this title (relating to Change of Home or Additional Office Location). A savings bank's home office is the place where a savings bank has its headquarters and from which all of its operations are directed.

(b) Ancillary Facilities. An authorized or approved office of a savings bank is the place where the business of the savings bank is conducted, and with the prior written consent of the Commissioner may include facilities ancillary thereto for the extension of the savings bank's services to the public. Any authorized or approved office of a savings bank also means, with the prior written consent of the Commissioner, separate quarters or facilities to be used by the savings

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 24 OF 47

bank for the purpose of performing service functions in the efficient conduct of its business.

(c) Notice of Home Office. All offices of a savings bank which are located outside the county of the domicile of its home office must display a sign which is suitable to advise the public of the type of additional office which is located therein and the location of the home office of such savings bank.

(d) Closing an Office. Before closing an approved branch or other office, other than a temporary closure as provided by §75.39 of this title (relating to Temporary Closing of Additional Offices), or an emergency closure as provided by Tex. Fin. Code §93.011, a savings bank must comply with the notice requirements of federal law, and provide the Commissioner with a copy of the closing notice filed with the appropriate federal banking agency upon filing such notice. A savings bank must provide the Commissioner with confirmation within 10 days after the actual closing date. Once closed, prior written approval from the Commissioner to operate a branch or other office is deemed revoked, and a savings bank may not reopen the branch or other office without seeking new approval from the Commissioner.

(e) Activities Not Requiring an Approved Office. The following activities of a savings bank, or any combination thereof, may be performed at a location other than the home or a branch office and such location does not constitute an "additional office" requiring notice to or the prior approval of the Commissioner for purposes of Tex. Fin. Code §92.063:

(1) Automated or remote activities. A savings bank may engage in limited banking activities through infrastructure and equipment by automated or remote means, including use of an automated teller machine (ATM), automated loan machine, automated device for receiving deposits (remote deposit capture), or other remote service unit.

(2) Loan production activities. A savings bank may engage in loan production activities including taking loan applications, making a credit decision, accepting payments on loans, or managing or selling real estate owned by the institution in connection with such loans, unless such activity conflicts with applicable state or federal law.

(3) Administrative activities (administrative offices). A savings bank may establish or maintain administrative offices to perform the internal operations of the bank, provided the savings bank does not conduct banking activities.

(4) Advertising and marketing. A savings bank may advertise and market itself to the public including soliciting deposits, providing information about the financial products of the savings bank, and assisting persons in completing application forms to open a deposit account, provided the savings bank does not conduct banking activities.

(5) Trade association participation; community events and engagement. A savings bank may participate in trade association events promoting the banking or financial services industry broadly. A savings bank may also host, attend, or otherwise participate in community events, provided the savings bank does not conduct banking activities at such event.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 25 OF 47

(6) Information technology (IT) infrastructure. A savings bank may operate information technology infrastructure or equipment including the placement of IT infrastructure in a data center, the hosting or processing of a website or data by a third party IT service provider, or such other physical presence tied to the IT infrastructure of the savings bank.

(7) Ancillary customer service activities. A savings bank may engage in customer service activities ancillary to its banking functions including relating to accessing or using its website or a software application.

§75.32.Types of Additional Offices.

Subject to the provisions of §§75.31 - 75.33, 75.35, 75.36, 75.38, 75.39, and 75.41 [~~75.31 - 75.36, 75.38, 75.39, 75.41~~] of this chapter, the following types of additional offices may be established and maintained by a savings bank:

(1) (No change.)

~~[(2) loan production offices (loan offices) at which the savings bank, may transact business, as provided by §75.34(a) of this chapter, but at which no other business of the savings bank is transacted;]~~

(2) [(3)] mobile facilities at which the savings bank may transact any business of the institution which could be done in the home office. A detailed record of the transactions at such facility must [~~shall~~] be maintained; and

~~[(4) administrative offices at which the savings bank may transact administrative functions of the institution, as provided by §75.34(b) of this chapter. Such office may be~~

~~located separate and apart from the location of any other facility of the savings bank;]~~

(3) [(5)] courier/messenger service to transport items relevant to the bank's transactions with its customers, including courier services between financial institutions; [~~and~~]

~~[(6) deposit production offices at which the savings bank may transact business, as provided by §75.34(e) of this chapter, but at which no other business of the savings bank is transacted.]~~

§75.33.Branch Office Applications.

(a) Each application for permission to establish a branch office must [~~shall~~] state the proposed location thereof; the personnel and office facilities to be provided; and the estimated cost and projected profits of such office. [~~Each application for a branch office shall be set for hearing, notice given, hearing held, and decision reached in the same manner and within the time as provided in this chapter for new charter applications and the hearing may be dispensed with under the same conditions.]~~

(b) All statements of fact tendered to the Commissioner [~~commissioner~~] in connection with branch office application must be subscribed and sworn to before a notary [~~signed and sworn to~~].

(c) The Commissioner [~~commissioner~~] may not approve an application for a branch office unless the Commissioner determines [~~commissioner shall have affirmatively found~~] from the information [~~data~~] furnished with the application, the evidence produced

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 26 OF 47

[~~adduced~~] at the hearing, if one is required, and Department [~~department~~] records that:

(1) - (3) (No change.)

(d) The branch office facility will commence operation within a period of 12 months after the date of approval unless an extension is granted, in writing, by the Commissioner [~~commissioner~~]. No more than one 12-month extension will be approved by the Commissioner [~~commissioner~~], unless good cause for such extension is shown. At the end of any approved extension, if the office has not been opened, the approval [~~authority~~] for such office is deemed revoked and a new application must be made [~~shall be forfeited~~].

(e) A branch office application is also required if a state savings bank would like to establish and operate a courier/messenger service pursuant to §75.32 [~~§75.32(5)~~] of this title (relating to Types of Additional Offices).

(f) Public Notice. An applicant seeking to establish a branch office must publish a public notice of the application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published both in the county where the proposed branch office is to be located and in the county where the savings bank has its home office.

(g) Request for Hearing; Deadline to Protest. A person affected by the proposed establishment of a branch office may protest or otherwise request a hearing on the branch office application as provided by Tex. Fin. Code §92.063. Any person affected by the proposed establishment of a branch office and desiring to protest the application or otherwise request a hearing on the

application must file a written protest within the Department within 10 days from the date the public notice was made as provided by subsection (f) of this section, otherwise any right or opportunity by such person to protest or have a hearing on the application under Tex. Fin. Code §92.063 is deemed to be waived.

(h) Hearing. If a hearing is required, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title.

(i) Time of Decision. To the extent a hearing on the application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by subsection (g) of this section.

§75.35. Mobile Facilities.

(a) Each application for permission to establish a mobile facility must state the proposed location(s) at and times during which the facility will operate; the need therefor; the personnel and office facilities to be provided and the estimated expense of such facility. An application for permission

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 27 OF 47

to establish a mobile facility may not be approved unless the Commissioner determines from the information furnished with the application, the evidence produced at the hearing, if one is required, and Department records, all requirements for approval of a branch office have been met.

(b) Public Notice. An applicant seeking to establish a mobile facility must publish a public notice of the application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published in the county or counties where the proposed mobile facility is to be operating and in the county where the savings bank has its home office.

(c) Request for a Hearing; Deadline to Protest. A person affected by the proposed establishment of a mobile facility may protest or otherwise request a hearing on the mobile facility application, as provided by Tex. Fin. Code §92.063. Any person affected by the proposed establishment of a mobile facility and desiring to protest the application or otherwise request a hearing on the application must file a written protest with the Department within 10 days from the date the public notice was made as provided by subsection (b) of this section, otherwise any right or opportunity by such person to protest or have a hearing on the application under Tex. Fin. Code §92.063 is deemed to be waived.

(d) Hearing. If a hearing is required, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning

contested cases set forth in Chapter 9 of this title.

(e) Time of Decision. To the extent a hearing on the application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the application is not required, the Commissioner will render a decision within 30 days after the time period for protesting or requesting a hearing on the application lapsed as provided by subsection (c) of this section.

(f) Operation of a Mobile Facility. Mobile facilities must be operated consistent with the following requirements:

(1) Such facility may be operated only at locations approved by the Commissioner, each of which must at all times be appropriately identified at the site and on the facility, within 100 miles of the institution's home office or a branch office.

(2) Each application must show that adequate safeguards exist for the security of such mobile facility and its contents. The Commissioner may require additional safeguards, if in the Commissioner's opinion the proposed safeguards are inadequate.

§75.36.[~~Designation as and~~] Exemption for Supervisory Sale.

(a) Designation as a Supervisory Sale [~~supervisory—sale~~]. The Commissioner [~~commissioner~~] may designate a purchase of

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 28 OF 47

additional offices and/or assets by a savings bank from another financial institution to be a supervisory purchase when:

(1) the Commissioner [~~commissioner~~] has placed the selling institution under voluntary supervisory control or under conservatorship; or

(2) the Commissioner [~~commissioner~~] has determined that the selling institution is in an unsafe condition; or

(3) the FDIC [~~Federal Deposit Insurance Corporation~~] has determined, and notified the Commissioner [~~commissioner~~], that one or more of the grounds specified in the Federal Deposit Insurance Act, for appointment of a conservator or receiver, exist with respect to the selling institution, or the proposed transaction is necessary to prevent the failure or possible failure of the selling institution. For purposes of this section, the term "unsafe condition" means [~~shall mean~~] that the selling institution is insolvent or is in imminent danger of insolvency, or that there has been a substantial dissipation of assets or earnings due to any violation or violations of applicable law, rules, or regulations, or to any unsafe or unsound condition to transact business in that there has been a substantial reduction of its capital; or that the institution and its directors and officers have violated any material condition of its charter or bylaws, the terms of any order issued by the Commissioner [~~commissioner~~] or any agreement between the institution and the Commissioner [~~commissioner~~]; or that the institution, its directors, or officers have concealed or refused to permit examination of the books, papers, accounts, records, and affairs of the institution by the Commissioner [~~commissioner~~] or other duly authorized

personnel of the department; or any other conditions affecting the institution which the Commissioner [~~commissioner~~] and the board of directors of the institution agree place the institution in an unsafe condition.

(b) Exemption for a Supervisory Sale [~~supervisory sale~~]. Whenever the Commissioner [~~commissioner~~] designates the purchase of additional offices and/or assets by a savings bank from another financial institution to be a supervisory purchase, the sections relating to the contents of applications for additional offices and the findings necessary for approval, §§75.31 - 75.33, 75.35, 75.36, 75.38, 75.39 and 75.41 [~~§§75.31—75.41~~] of this title (relating to Additional Offices), are not [~~shall not be~~] applicable, and such purchase must [~~shall~~] be effected in accordance with this section.

§75.38. Change of Home or Additional Office [~~Branch Office~~] Location.

(a) A savings bank may not move its home office or any additional office as provided by §75.32 of this title (relating to Types of Additional Offices) [~~branch office~~] beyond its immediate vicinity without prior approval of the Commissioner [~~commissioner~~]. Immediate vicinity is the area included within a radius or distance of one mile from the present location of such office. Any relocation within the immediate vicinity as defined in this section will require the approval of the Commissioner [~~commissioner~~], if the office to be relocated has not been open for business at its present location for more than two years. If the existing office has been opened for more than two years, prior written notice must [~~shall~~] be provided to the Commissioner

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 29 OF 47

~~[commissioner]~~ asserting the relocation is in the immediate vicinity.

(b) Notwithstanding subsection (a) of this section, a savings bank may retain its existing home office as a branch office and relocate its home office to another established branch office by providing the Commissioner ~~[commissioner]~~ with prior written notice. Upon such notification, the establishment of such office is ~~is~~ [shall be] ~~is~~ deemed to be an approved branch ~~[administrative]~~ office of the savings bank.

(c) Each application for prior approval, or prior written notice, whichever is applicable, must ~~shall~~ provide, the existing and new branch location's address; a description of the land and building to be built or leased and terms thereof; estimates of the cost of removal to and maintenance of the new location; whether any affiliated parties are involved in transactions regarding the purchase, sale, construction, or lease of the new proposed office; evidence of the bank board's approval of the relocation; and any other information as deemed necessary by the Commissioner ~~[commissioner]~~.

~~[(d) An application to move an office location shall be set for hearing by the commissioner and notice given as provided for new charter applications, and the hearing may be dispensed with by the commissioner under the same conditions.]~~

(d) ~~[(e)]~~ The Commissioner ~~[commissioner]~~ may not approve an application to move or relocate any office of a savings bank, unless the Commissioner ~~[commissioner]~~ finds ~~finds~~ from the information ~~[data]~~ furnished with the application, the evidence produced ~~[adduced]~~ at the hearing, if one is required,

and Department ~~[department]~~ records, all requirements ~~[of the findings necessary]~~ for approval of a branch office have been met.

(e) Public Notice. An applicant seeking to change the location of the home office must publish a public notice of the application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published in the county where the office is presently located, the county where the proposed new location is to be located, and the county where the savings bank has its home office.

(f) Request for Hearing; Deadline to Protest. A person affected by the proposed change in home or branch office location may protest or otherwise request a hearing on the branch office application, as provided by Tex. Fin. Code §92.063. Any person affected by the proposed change in home or branch office location and desiring to protest the application or otherwise request a hearing on the application must file a written protest with the Department within 10 days from the date the public notice was made as provided by subsection (e) of this section, otherwise any right or opportunity by such person to protest or have a hearing on the application under Tex. Fin. Code §92.063 is deemed to be waived.

(g) Hearing. If a hearing is required, the Commissioner will set a hearing on the application within 60 days after the date the protest or request for hearing and the required fee are received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 30 OF 47

(h) Time of Decision. To the extent a hearing on the application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal or decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the application is not required, the Commissioner will render a decision within 30 calendar days after the time period for protesting or requesting a hearing on the application lapsed as provided by subsection (f) of this section.

§75.39. Temporary Closing of Additional Offices.

In the event a savings bank closes any additional office of any type on a temporary basis, said office must be reopened within 12 months or less, unless otherwise extended by written authorization of the Commissioner. In the event such office is not reopened within the allotted 12-month period, or the longer period established by the Commissioner, if applicable, the Commissioner's approval to establish such office for purposes of §75.31 of this title (relating to Additional Offices; Activities Not Requiring an Approved Office) is deemed revoked [such authorization for the office shall be forfeited]. Written notice of any temporary closing must [shall] be furnished to the Commissioner [commissioner] within 10 days of such closing, and no additional office may reopen [shall be deemed to have reopened] until the Commissioner [commissioner] receives written notification within 10 days of such reopening. The permanent closing of an office must comply with the requirements of §75.31(d) of this

title (relating to Additional Offices; Activities Not Requiring an Approved Office).

§75.41. Offices in Other States or Territories.

To the extent permitted by the laws of the state or territory in question, and subject to this chapter, a savings bank may establish branch offices ~~[and loan production offices]~~ in any state or territory of the United States. Each application for permission to establish such a branch office must [or loan production office shall] comply with the applicable requirements of this chapter, and must [shall] include a certified copy of an order from the appropriate state or territorial regulatory authority approving the office or unit, or other evidence satisfactory to the Commissioner [commissioner] that all state or territorial regulatory requirements have been satisfied. Each such application must [shall] be set for hearing, if applicable, notice given, hearing held, if applicable, and decision reached in the same manner and within the time provided by §75.33 (relating to Branch Office Applications) [in this chapter for similar applications for offices in this state]. The Commissioner [commissioner] may not approve such an application unless the Commissioner determines [commissioner finds] from the information [data] furnished with the application, the evidence produced [adduced] at the hearing, if one is required [applicable], and Department [department] records that all requirements of this chapter applicable to the office have been met, and that all applicable requirements of the laws of the state or territory in question have been met.

The agency certifies that legal counsel has reviewed the proposal and found it to be

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 31 OF 47

within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 18, 2020.

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For further information, please call: (512) 475-1535

SUBCHAPTER D. REORGANIZATION, MERGER, CONSOLIDATION, CONVERSION, PURCHASE, AND ASSUMPTION AND ACQUISITION

7 TAC §§75.81 - 75.83, 75.87 - 75.91

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. 7 TAC §§75.81 - 75.83 and 75.88 are proposed under the authority of, and to implement, Finance

Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (13) of that subsection; and Chapter 92, Subchapters C and H. 7 TAC §75.88 is also proposed under the authority of, and to implement, Finance Code Chapter 92, Subchapter I. 7 TAC §75.89 is proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (13) of that subsection; and Chapter 92, Subchapter F. 7 TAC §75.90 is proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (13) of that subsection; and Chapter 92, Subchapter G. 7 TAC §75.91 is proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (13) of that subsection; and §92.052.

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.81.Reorganization, Merger, Consolidation or Purchase and Assumption Transaction.

(a) Reorganization, merger or conversion of a state savings bank into another type of financial institution charter is governed by the ~~[shall be exclusively subject to the]~~ provisions of §75.89 of this title (relating to Reorganization, Merger or Conversion to Another Financial Institution Charter), and not the requirements of this section. ~~[Such a transaction shall not be subject to the procedures and requirements set forth in this section.]~~

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 32 OF 47

(b) Any savings bank seeking to reorganize, merge, and/or consolidate or to engage in a purchase and assumption transaction in which the resulting institution will be a state savings bank must ~~[shall]~~ do so pursuant to a plan adopted by the board of directors and filed with the Commissioner ~~[commissioner]~~ as a part of an application for approval. Purchase and assumption transactions include purchases ~~[or sales]~~ of assets, deposit accounts or other liabilities in bulk not made in the ordinary course of business.

§75.82. Form and Content of Application.

~~[(a)]~~ The application for approval of the plan must ~~[shall be titled "Application to Reorganize, Merge and/or Consolidate" and shall]~~ contain: proof that the plan was adopted by the board of directors of each institution involved; documentation showing that the plan has been approved by each institution by a majority of the total vote the members or shareholders of each are entitled to cast; a statement that the corporate continuity of the resulting institution will ~~[shall]~~ possess the same incidents as that of a savings bank which has converted in accordance with the Texas Savings Bank Act; and a statement identifying the home office of the resulting institution. A true copy of the plan, as adopted, must ~~[shall]~~ be filed as part of the application. All documents and their contents must be subscribed and sworn to before a notary ~~[shall be subscribed and sworn to by an officer of each institution involved under the sanction of an oath, or such affirmation as is by law equivalent to an oath, made before an officer authorized to administer oaths].~~

~~[(b)]~~ ~~The commissioner shall furnish approved forms of application. The forms are~~

~~available from the department at 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.]~~

§75.83. Notice and Hearing.

(a) Public Notice. An applicant seeking reorganization, merger, consolidation, conversion, purchase and assumption or acquisition must publish a public notice of the plan and application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published in each county in which a financial institution participating in the plan has its home office. Such notice, when properly effected, is deemed to be the Commissioner's public notice of the plan and application for purposes of Tex. Fin. Code §92.352.

(b) Request for Hearing; Deadline to Protest. Any interested person desiring to protest the plan and application or otherwise request a hearing on the plan and application must file a written protest with the Department within 10 days from the date the public notice was made as provided by subsection (a) of this section, otherwise any right or opportunity by such person to protest or have a hearing on the application under Tex. Fin. Code §92.352 is deemed to be waived.

(c) Hearing. If a hearing is required, the Commissioner will set a hearing on the plan and application within 60 days after the date the protest or request for hearing and the required fee are received, unless the Commissioner determines that the provision set forth in §75.87 of this title apply, and the merger is designated as a supervisory merger for purposes of Tex. Fin. Code §92.352(e). The hearing is governed by the procedural requirements concerning contested cases set

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 33 OF 47

forth in Government Code Chapter 2001 and Chapter 9 of this title.

(d) Time of Decision. To the extent a hearing on the plan and application is required, the Commissioner will render a decision within 30 days after the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. If a hearing on the plan and application is not required, the Commissioner will render a decision within 30 days after the time period for requesting a hearing on the plan and application lapsed as provided by subsection (b) of this section, unless the Commissioner establishes a longer time period, with written notice to the applicant.

§75.87. [~~Designation as and~~] Exemption for Supervisory Merger.

(a) The Commissioner [~~commissioner~~] may designate a merger to be a supervisory merger when:

(1) the Commissioner [~~commissioner~~] has placed one or more of the savings banks involved under voluntary supervisory control or under conservatorship pursuant to the Texas Savings Bank Act; or

(2) the Commissioner [~~commissioner~~] has determined that one or more of the savings banks involved is in an unsafe condition; or

(3) the FDIC [~~Federal Deposit Insurance Corporation~~] has determined, and certified to the Commissioner [~~commissioner~~], that the merger of one or more of the institutions

involved is necessary to prevent the failure or possible failure of the said institution.

(b) For purposes of this section, unsafe condition means [~~shall mean~~] that the savings bank (or savings banks) is insolvent or is in imminent danger of insolvency, or that there has been a substantial dissipation of assets or earnings due to any violation or violations of applicable law, rules, or regulations, or to any unsafe or unsound practice or practices; or that the savings bank is in an unsafe and unsound condition to transact business in that there has been a substantial reduction of its capital; or that the savings bank and its directors and officers have violated any material conditions of its charter or bylaws, the terms of any order issued by the Commissioner [~~commissioner~~], or any agreement between the savings bank and the Commissioner [~~commissioner~~]; or that the savings bank, its directors, and officers have concealed or refused to permit examination of the books, papers, accounts, records, and affairs, of the savings bank by the Commissioner [~~commissioner~~] or other duly authorized personnel of the Department [~~department~~]; or any other condition affecting the savings bank which the Commissioner [~~commissioner~~] and the board of directors of the savings bank agree place the savings bank in an unsafe condition.

(c) When the Commissioner [~~commissioner~~] designates a merger to be a supervisory merger, the provisions of this chapter relating to reorganization, merger, [~~and/or~~] consolidation or purchase and assumption, §§75.81 - 75.83 [~~75.86~~] of this title (relating to Reorganization, Merger, Consolidation or Purchase and Assumption Transaction; Form and Content of Application; and Notice and Hearing) are not applicable, and the merger

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 34 OF 47

will instead be effected pursuant to this section [~~Filing of Plan; Form and Content of Application; Notice and Hearing; Publication; Time of Decision; and Appeal~~] shall not be applicable, and the merger shall be effected pursuant to this section].

§75.88.Acquisitions Involving Financial Institutions in Other States or Territories.

To the extent permitted by the laws of the state or territory in question, and subject to this chapter, a savings bank may acquire, by merger or purchase of stock, a financial institution incorporated under the laws of another state. Each such application must [~~shall~~] comply with the applicable requirements of this chapter, and must [~~shall~~] include a certified copy of an order from the appropriate state regulatory authority approving the merger or acquisition, or other evidence satisfactory to the Commissioner [~~commissioner~~] that all state regulatory requirements have been satisfied. Each such application must [~~shall~~] be set for hearing, if applicable, notice given, hearing held, if applicable, and decision reached in the same manner and within the time provided by §75.83 (relating to Notice and Hearing) [~~in this chapter for a similar application involving another savings bank in this state~~]. The Commissioner may not [~~commissioner shall~~] approve such an application unless the Commissioner determines [~~if the commissioner finds~~] from the information [~~data~~] furnished with the application, the evidence produced [~~adduced~~] at the hearing, if one is required, and Department [~~department~~] records, that all requirements of this chapter applicable to the proposed merger or acquisition have been met, and that all applicable requirements of the laws of the state or territory in question have been met.

§75.89.Reorganization, Merger or Conversion to Another Financial Institution Charter.

(a) A savings bank is authorized to reorganize, merge, or convert into another type of financial institution charter subject to applicable law and regulation relating to the type of charter which will [~~shall~~] be held by the resulting institution.

(b) The Commissioner must [~~commissioner shall~~] be given written notice of the intention of the savings bank to reorganize, merge or convert no less than 30 days prior to the proposed transaction.

(c) The savings bank must [~~shall~~] file with the Commissioner [~~commissioner~~]:

(1) - (3) (No change.)

(4) evidence to ensure that no undue harm will [~~shall~~] be caused to the public interest or to any other existing financial institution.

(d) The Commissioner is [~~Upon the receipt of all of the preceding information and any required filing fee, the commissioner shall be~~] deemed to have consented to the reorganization, merger or conversion into another type of financial institution charter at the time the Department notifies the savings bank that the filing made in accordance with this section is complete and has been accepted for filing as provided by §75.202 of this title (relating to Application Filing Requirements). Upon compliance with the provisions of this section and the granting of a successor charter by the appropriate banking agency, a copy of which must [~~shall~~] be filed with the Commissioner [~~commissioner~~], the savings bank receiving

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 35 OF 47

the new charter ceases to exist as a savings bank and will no longer be subject to the jurisdiction of the Commissioner [~~commissioner~~]. The foregoing notwithstanding, the Commissioner must receive the original charter certificate or a certified affidavit of lost certificate in order to be released from the requirement to pay annual assessments as provided by §76.98 of this title (relating to Annual Assessments.)

§75.90. Conversion into a Savings Bank.

(a) The Commissioner may authorize any financial institution to convert itself into a savings bank in a manner consistent with the provisions of applicable law and regulations of the institution.

(b) Plan and Application. In order to obtain such authorization, the converting institution's board of directors must approve and authorize the filing of a conversion plan and application. Upon approval of the conversion plan, the plan must be approved by a majority vote of the members or shareholders of the financial institution entitled to vote at any annual or special meeting called to consider such conversion, a resolution declaring that the savings bank will be so converted, which resolution, verified by affidavit of the secretary or an assistant secretary, must be filed with the Commissioner and mailed to the appropriate banking agency within 10 days after the date of its adoption. At the meeting to vote on a conversion to a domestic savings bank, the members or stockholders must also vote on the directors of the savings bank. The proposed directors must execute an application for savings bank charter as provided by Finance Code Chapter 92 Chapter 92, Subchapter B, and §75.1 of this

title (relating to Application for Savings Bank Charter).

(c) Review by Commissioner; Approval. The Commissioner, on receipt of the application and verified copy of the minutes, will conduct an examination of the financial institution seeking conversion. Following the examination, the Commissioner will approve the conversion without a hearing if the Commissioner determines that the converting financial institution is in sound condition and meets all standards, conditions, and requirements of Finance Code Chapter 92, Subchapter B, and §§75.1 - 75.3 and 75.6 of this title (relating to Application for Savings Bank Charter; Hearing on Charter Application; Publication of Notice of Charter Application; and Time of Decision on Charter Application). On approval of the conversion, the saving bank's charter is deemed to include a paragraph stating that the savings bank is incorporated by conversion from another financial institution, as required by Tex. Fin. Code §92.303(c).

(d) Review by Commissioner; Approval. An applicant is entitled to a hearing under the Chapter 2001 of the Texas Government Code if the Commissioner denies an application to convert and a written request for a hearing is delivered to the Commissioner within 10 days after the date of denial. A hearings officer designated by the Commissioner will hold the hearing. The Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision. Only then will the

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 36 OF 47

hearing be deemed to be completed for purposes of Tex. Fin. Code §92.304.

§75.91. Mutual to Stock Conversion.

(a) [~~Applications for conversion from a mutual to stock form of ownership shall be filed with the commissioner on forms approved by the commissioner.~~] The application for mutual to stock conversion must [~~shall~~] include:

(1) (No change.)

(2) amendments to the savings bank's certificate of formation [~~articles of incorporation~~] and bylaws;

(3) a copy of the proxy and soliciting materials to be used; and

(4) such other information the Commissioner [~~commissioner~~] may require.

(b) The plan of conversion must [~~shall~~] provide:

(1) (No change.)

(2) that the shares of the converting savings bank be offered to persons with subscription rights and management, in that order, and that any remaining shares will [~~shall~~] be sold either in a public offering through an underwriter or directly by the converting savings bank in a direct community offering;

(3) that a direct community offering by the converting savings bank will [~~shall~~] give a preference to natural persons residing in the counties in which the savings bank has an office;

(4) that the sale price of the shares of capital stock to be sold in the conversion will [~~shall~~] be a uniform price determined in accordance with paragraph (1) of this subsection, and [~~shall~~] specify the underwriting and/or other marketing arrangements to be made;

(5) (No change.)

(6) that each savings accountholder of the converting savings bank will [~~shall~~] receive, without payment, a withdrawable savings account or accounts in the converted savings bank equal in withdrawable amount to the withdrawal value of such accountholder's savings account or accounts in the converting savings bank;

(7) (No change.)

(8) that expenses incurred in the conversion are [~~shall be~~] reasonable;

(9) that the converting savings bank may [~~shall~~] not loan funds or otherwise extend credit to any person to purchase the capital stock of the savings bank;

(10) (No change.)

(11) the amount of the deposit of an accountholder will [~~shall~~] be the total of the deposit balances in the accountholder's savings accounts in the converting savings bank as of the close of business on the eligibility record date. The plan of conversion may provide that the total deposit balances of less than \$50 (or any lesser amounts) will [~~shall~~] not be considered for purposes of paragraph (6) of this subsection.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 37 OF 47

(c) A plan of conversion must [~~shall~~] be adopted by not less than two-thirds of the savings bank's board of directors.

(d) Upon determining that an application for conversion is properly executed and is not materially incomplete, the Commissioner [~~commissioner~~] will advise the savings bank, in writing, to publish a notice of the filing of the application. Promptly after receipt of the advice, the savings bank must [~~shall~~] prominently post the notice in each of its offices and publish the notice in a newspaper printed in the English language and having general circulation in each community in which an office of the savings bank is located, as follows.

Figure: 7 TAC §75.91(d) (No change.)

(e) Promptly after publication of the notice or notices prescribed in subsection (d) of this section, the savings bank must [~~shall~~] file one copy of the notice together with an affidavit of publication from each publisher with the Commissioner [~~commissioner~~].

(f) Following approval of the application for conversion by the Commissioner [~~commissioner~~], the plan of conversion must [~~shall~~] be submitted to the members at an annual or special meeting and the plan must [~~shall~~] be approved, in person or by proxy, by at least a majority of the total outstanding votes of the members of the savings bank.

(g) No offer to sell securities of a savings bank pursuant to a plan of conversion may be made prior to Commissioner's [~~commissioner's~~] approval of the:

(1) - (3) (No change.)

(h) Within 45 days:

(1) (No change.)

(2) after the last day of the subscription period, the sale of all shares of capital stock of the converting savings bank to be made under the plan of conversion, including any sale in a public offering or direct community marketing, must [~~shall~~] be completed.

(i) The converting savings bank must [~~shall~~] pay interest at not less than the savings account interest rate on all amounts paid in cash or by check or money order to the savings bank to purchase shares of capital stock in the subscription offering or direct community offering from the date payment is received by the savings bank until the conversion is completed or terminated.

(j) For the purpose of this rule, the public offering and a direct community offering is [~~shall be~~] deemed to commence upon the declaration of effectiveness by the Commissioner [~~commissioner~~] of the final offering circular.

(k) The Commissioner [~~commissioner~~] may grant a written waiver from any requirement of [~~for~~] this rule.

(l) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 38 OF 47

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7 TAC §§75.83 - 75.86, 75.90

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.83. Notice and Hearing.

§75.84. Publication.

§75.85. Time of Decision.

§75.86. Appeal.

§75.90. Conversion into a Savings Bank.

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**SUBCHAPTER E. CHANGE OF
CONTROL**

7 TAC §§75.121, 75.123, 75.125

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 39 OF 47

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.121.Definitions.

§75.123.Hearings.

§75.125.Application for Approval of the Acquisition of Control of a Savings Bank.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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7 TAC §§75.122 - 75.124, 75.126, 75.127

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also

made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. 7 TAC §§75.122 - 75.124, 75.126 and 75.127 are proposed under the authority, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraphs (2) and (10) of that subsection; and Chapter 92, Subchapter L. 7 TAC §75.122 is also proposed under the authority of Finance Code §96.002(b).

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.122.Acquisition of a Savings Bank.

The following procedures must [~~shall~~] be followed when a person desires to acquire control of a savings bank.

(1) No person other than the issuer may [~~shall~~] make a public tender offer for, solicitation or a request or invitation for tenders of, or enter into and consummate any agreement to exchange securities for, seek to acquire, or acquire in the open market or by means of a privately negotiated agreement or contract, any voting security or any security convertible into a voting security of a savings bank if, after the consummation thereof, such person would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such savings bank, unless such person has filed with the Commissioner [~~commissioner~~] all of the following information on an application form approved by the Commissioner [~~commissioner~~] and which application form

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 40 OF 47

is deemed by the Commissioner [~~commissioner~~] to be complete and has received a written order from the Commissioner [~~commissioner~~] approving such acquisition or change of control:

(A) the background and identity of the applicant, if said applicant and any affiliate is an individual, or all persons who are directors, executive officers, or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual. Said filing must [~~shall~~] contain the following information:

(i) - (v) (No change.)

(vi) whether any such individual has been or is a party to any federal, state, or municipal governmental agency administrative actions in which such individual was or is alleged to be in violation of any governmental agency statute or regulation, and, if so, giving the date, nature of the action, name and location of the governmental agency, and disposition of the case; and any other relevant information requested by the Commissioner [~~commissioner~~];

(B) if the applicant is not an individual, the nature of its business operations for the past five years or for such lesser period as such applicant and any predecessors thereof [~~shall~~] have been in existence;

(C) (No change.)

(D) nature, identity, source, and amount of funds or other consideration used or to be used in effecting the acquisition of control, and, if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained, there must [~~shall~~] be a

description of the transaction, the names of the parties, and all arrangements, or other understanding with such parties, including all arrangements, agreements, or understandings in regard to repayment of the funds;

(E) - (H) (No change.)

(I) copies of any contracts, agreements, or other documents which the Commissioner [~~commissioner~~] determines are relevant to the review of the application; and

(J) any other relevant information requested by the Commissioner [~~commissioner~~].

(2) If the person required to file the information referred to in this section is a partnership, limited partnership, syndicate, trust, or other group, the Commissioner [~~commissioner~~] may require that the information must [~~shall~~] be given [~~with respect~~] to:

(A) - (C) (No change.)

(3) If the person required to file the information referred to in this section is a corporation, the Commissioner [~~commissioner~~] may require that the information called for must [~~shall~~] be given with respect to such corporation and each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of such corporation.

(4) The transaction for acquisition of control of a savings bank may not be consummated until the Commissioner [~~commissioner~~] approves the application for acquisition of control. The application will be processed

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 41 OF 47

and considered in accordance with Tex. Fin. Code §92.556 and §92.557: [~~The commissioner shall render a decision within 60 days after the application required by paragraph (1) of this section has been filed with and deemed complete by the commissioner. The commissioner shall deny an application for acquisition of control of a savings bank if the commissioner finds any of the following:~~

(A) the acquisition would substantially lessen competition or would in any manner be in restraint of trade and would result in a monopoly or would be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the savings and loan or the savings bank industry in any part of the state, unless the commissioner also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of acquisition in meeting the convenience and needs of the community to be served and that the proposed acquisition is not a violation of any law of this state or the United States;

(B) the poor financial condition of any acquiring party might jeopardize the financial stability of the savings bank being acquired;

(C) plans or proposals to liquidate or sell the savings bank or its assets are not in the best interest of the savings bank;

(D) the experience, ability, standing, competence, trustworthiness, or integrity of the applicant is such that the acquisition would not be in the best interest of the savings bank;

(E) the savings bank will not be solvent, have adequate capital structure, or be in

compliance with the laws of this state after the acquisition;

(F) the applicant has failed to furnish all of the information pertinent to the application reasonably requested by the commissioner;

(G) the acquisition would result in the violation of any law or regulation or it has been evidenced that the applicant, affiliates, or affiliated persons may cause to be abused the fiduciary responsibility held by the savings bank or other demonstration or untrustworthiness of the applicant, affiliates, or affiliated persons which would affect the savings bank has been evidenced; or

(H) the applicant is not acting in good faith.

(5) If any material change occurs in the facts set forth in the application and any documents filed with the department, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner within three business days after the person learns of such change.

§75.123. Notice and Hearing.

(a) Public Notice. An applicant timely requesting a hearing on the Commissioner's decision to deny the application must publish a public notice of the application as provided by §75.203 of this title (relating to Public Notice of Application), which must be published in the county where the savings bank has its home office. Such notice, when properly effected, is deemed to be the Commissioner's public notice of the application for purposes of Tex. Fin. Code §92.557.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 42 OF 47

(b) Hearing. If a hearing is required, the Commissioner will set a hearing on the denial within 60 days after the date the request for a hearing on the denial was received. The hearing is governed by the procedural requirements concerning contested cases set forth in Chapter 9 of this title.

(c) Time of Decision. To the extent a hearing on the Commissioner's decision to deny the application is required, the Commissioner will render a decision within 30 days after the date the hearings officer issues his or her proposal for decision and the applicable time period for filing exceptions to the proposal for decision and replies to such exceptions has lapsed without the hearings officer amending the proposal for decision, unless the Commissioner establishes a longer time period, with written notice to the applicant.

§75.124.Retention of Control.

(a) The following conditions affecting any controlled savings bank, regardless of when or how such control has been acquired, are grounds for the Commissioner [~~commissioner~~] to investigate, seek to enjoin, or set aside any change of control of a savings bank, if the Commissioner [~~commissioner~~] deems the transfer to be against the public interest:

(1) - (2) (No change.)

(b) The Commissioner [~~commissioner~~] may require the submission of such information as necessary to determine whether any retention of control complies with the law of this state, as a condition of approval of such retention of control.

(c) The Commissioner [~~commissioner~~] may, when it appears that a change of control may have taken place without prior approval, call a hearing to determine whether there has been in fact a change of control or whether any unauthorized person, or persons, having no apparent ownership interest in the savings bank, acting alone or in concert with others, effectively have indirect controlling or dominating influence over the management or policies of a savings bank. If the Commissioner [~~commissioner~~] finds that such unauthorized control exists, the Commissioner [~~commissioner~~] may, after notice and hearing, issue an order requiring immediate divestiture by certain persons or unapproved or indirect control, or the Commissioner [~~commissioner~~] may issue any other supervisory order the Commissioner [~~commissioner~~] deems appropriate.

§75.126.Abeyance of Other Applications.

When an application for approval of acquisition of control of a savings bank has been received by the Commissioner [~~commissioner~~] and the savings bank also has other applications on file with the commissioner, such applications may, at the Commissioner's [~~commissioner's~~] discretion, be held in abeyance until the change of control application has been disposed of [~~by the commissioner~~].

§75.127.Exempt Transactions.

The following transactions are exempt from the application requirements of Chapter 75, Subchapter E of this title (relating to Change of Control) [~~this section~~]:

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 43 OF 47

(1) control of an insured institution acquired solely as a result of foreclosure on the stock of a savings bank which secures a loan contracted for in good faith, where such loan was made in the ordinary course of business of the lender, provided that the acquisition of control pursuant to such foreclosure is reported to the Commissioner [~~commissioner~~] within 30 days and provided further that the acquiror may [~~shall~~] not retain such control for more than one year from the date on which such control was acquired. The Commissioner [~~commissioner~~] may, upon application by the acquiror, extend such one-year period from year to year for an additional period of time, not to exceed three years, if the Commissioner [~~commissioner~~] finds such extension is warranted and would not be detrimental to the public interest. Nothing in this subsection prevents [~~shall prevent~~] such acquiror from filing an application pursuant to this chapter for permanent approval of the acquisition of control;

(2) - (3) (No change.)

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SUBCHAPTER F. GENERAL PROVISIONS

7 TAC §§75.201 - 75.204

Statutory Authority

This proposal is made under the authority of Finance Code §11.302(a) which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a), which authorizes the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks. 7 TAC §75.202 and §75.203 are proposed under the authority of, and to implement, Finance Code: §96.002(a), for those specific subject matters outlined in paragraph (2) of that subsection. 7 TAC §75.201 is also proposed under the authority of, and to implement, Finance Code §92.055. 7 TAC §75.203 is also proposed under the authority of, and to implement, Finance Code: §92.057(a)(1); §92.352(a)(1); and §92.557(d).

This proposal affects the statutes contained in Finance Code, Subtitle C, the Texas State Savings Bank Act.

§75.201. Definitions.

The following words and terms, when used in this chapter, are assigned the following

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 44 OF 47

meanings, unless the context clearly indicates otherwise.

(1) Affiliate--An affiliate of, or person affiliated with, a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the person specified.

(2) Affiliated person--

(A) a director, officer, or controlling person of such savings bank;

(B) a spouse of a director, officer, or controlling person of such savings bank;

(C) a member of the immediate family of a director, officer, or controlling person of such savings bank who is a director or officer of any subsidiary of such savings bank or of any holding company affiliate of such savings bank;

(D) any corporation or organization (other than the savings bank or a corporation or organization through which the savings bank operates) of which a director, officer, or controlling person of such savings bank:

(i) is an officer;

(ii) is a general partner;

(iii) is a limited partner who, directly or indirectly, either alone or with their spouse and the members of their immediate family who are also affiliated persons of the savings bank, owns an interest of 10% or more in the partnership (based on the value of their contribution) or who, directly or indirectly with other directors, officers, and controlling

persons of such savings bank and their spouses and their immediate family members who are also affiliated persons of the savings bank, owns an interest of 25% or more in the partnership; or

(iv) directly or indirectly, either alone or with their spouse and the members of their immediate family who are also affiliated persons of the savings banks, owns or controls 10% or more of any class of equity securities or owns or controls, with other directors, officers, and controlling persons of such savings bank and their spouses and their immediate family members who are also affiliated persons of the savings bank, 25% or more of any class of equity securities; and

(E) any trust or other estate in which a director, officer, or controlling person of such savings bank or the spouse of such person has a substantial beneficial interest or as to which such person or their spouse serves as trustee or in a similar fiduciary capacity.

(3) Commissioner--The Savings and Mortgage Lending Commissioner appointed under Finance Code, Chapter 13.

(4) Control (including the terms controlling, controlled by, and under common control with)--The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a savings bank by either direct or indirect means. Control is deemed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds irrevocable proxies representing 25% or more of the voting securities of a savings bank.

(5) FDIC--The Federal Deposit Insurance Corporation.

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 45 OF 47

(6) Issuer--The savings bank which has issued the security in question.

(7) Managing officer--An individual designated by the board of directors as being responsible for, and having the authority to direct, the day-to-day operations of the savings bank. The managing officer must have sufficient banking experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that, under the management and supervision of the managing officer, the savings bank will operate in compliance with applicable law and that success of the savings bank is probable.

(8) Person--An individual, corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

(9) Savings bank--includes all savings banks organized or chartered under the laws of this state. For purposes of this chapter, savings bank includes any other person controlling a savings bank.

(10) Voting security--includes any security convertible into or evidencing a right to acquire a voting security.

§75.202.Application Filing Requirements.

(a) Scope; Application. Applications and other filings submitted to the Department must comply with the requirements of this section.

(b) Application Forms. All applications must be made on the current form for the application prescribed by the Commissioner.

(c) Incomplete Filings; Notice of Acceptance; Deemed Withdrawal. An application or other filing with the Department will only be deemed submitted if it is complete. An application or other filing is complete only if all required information and supporting documentation is included and all required fees have been received. Within 30 days of receipt of an application or other filing requesting authorization or other relief from the Commissioner pursuant to this title, and for which a filing fee is charged pursuant to Chapter 76, Subchapter F of this title (relating to Fees and Charges), the Commissioner or the Commissioner's designee will issue a written notice to the applicant or filer informing them either that the application is complete and accepted for filing, or that the application or filing is incomplete and specifying the information required to render the application or filing complete. The application or filing may be deemed withdrawn and the applicable fee forfeited if, within 30 days of being notified the application or filing was incomplete, the applicant or filer fails to provide to the Department the supplemental information or supporting documentation necessary to render the application or filing complete.

(d) Duty to Supplement. Even after being notified of the filing being complete, the applicant has a continuing obligation and duty to supplement the filing with any information or other supporting documentation the Commissioner determines to be necessary to render a decision on the application, upon written request. The applicant must provide to the Department any

PROPOSED REPEALS, AMENDMENTS, AND NEW RULES
7 TAC CHAPTER 75
PAGE 46 OF 47

information or supporting documentation submitted to the appropriate federal banking regulator in connection with the relief sought by the application not previously provided to the Department.

(e) Duty to Amend. If a material change occurs in the facts contained in or information furnished in support of the application, the applicant must file an amended application or otherwise supplement the application to address the material change. The applicant must endeavor to resolve any potential changes or amendments to the application prior to publishing public notice of the application as provided by §75.203 of this title (relating to Public Notice of Application). Amendments made after publication of such notice may require the notice to be re-published, as determined in the sole discretion of the Commissioner, with written notice to the applicant.

§75.203.Public Notice of Application.

An application for which notice to the public is required to be published must comply with the requirements of this section. The notice must be made using language and content preapproved by the Commissioner prior to publishing. The notice must be submitted to the publisher for publication within 15 days after the date the applicant receives notice that the application is complete and accepted for filing as provided by §75.202(c) of this title (relating to Application Filing Requirements). The notice must be published in an English language newspaper of general circulation in each county required by the rule(s) governing such application. The applicant must, within 10 days after publishing the notice, provide the

Commissioner with a publisher's affidavit evidencing that the notice was properly published in conformity with this section. The notice is deemed properly effected when the appropriate notice has been published in conformity with this section, and more than 10 days have elapsed.

§75.204.Motions for Rehearing.

A motion for rehearing pursuant to Tex. Fin. Code §91.006 must be filed not later than the 14th day after the date the decision or order that is the subject of the motion is signed. A copy of the motion for rehearing must be served on all parties who made an appearance or otherwise submitted a filing in the proceeding, and the motion must include a certificate of service reciting the parties served and the method of service. A party must file a reply to the motion for rehearing, if any, not later than the 30th day after the date the decision or order that is the subject of the motion is signed. The Commissioner must act on the motion for hearing not later than the 45th day after the date the decision or order that is the subject of the motion for rehearing is signed or the motion for rehearing is deemed overruled by operation of law.

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7 TAC CHAPTER 75
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