
INTERSTATE BANKING AND BRANCHING

HB 2066/SB 861

Presented by

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HISTORY OF INTERSTATE BRANCHING

- 1995: Texas Legislature unanimously voted to opt out of interstate branching.
- May 1998: Interstate branching imposed on Texas by federal courts.
- Texas' opt out statute ruled ineffective because it did not include state savings banks.

INTERSTATE BRANCHING TASK FORCE FORMED

- Banking Commissioner announced task force to study changes needed in current laws to implement interstate branching.
- Task Force members: legislative staff, banking lawyers, state agencies' staffs.

INTERPLAY WITH OTHER LAW

Bill harmonizes state law with:

- NAFTA
- GATT
- International Banking Act
- Riegle-Neal Banking Act
- FDI Act
- Federal Reserve Act

HIGHLIGHTS OF HB 2066/SB 861

De novo branching with reciprocity:

- If Texas banks can enter other states through branches only, then banks in those states can do the same in Texas.
- Otherwise, entry by purchase of bank in existence for over 5 years.

HIGHLIGHTS OF HB 2066/SB 861

The superparity provision:

- State banks and state thrifts will have powers equal to other financial institutions in other states or national banks.
- FDIC requirement that restricts powers of state banks to those of national banks serves as a barrier to unsafe conduct.

HIGHLIGHTS OF HB 2066/SB 861

The superparity provision cannot negate application of laws with respect to:

- Establishment and maintenance of a branch in this state.
- Sale of insurance products and services in this state.
- Permissible interest rates and loan fees
- Fiduciary duties owed to a client or customer by the bank
- Consumer protection laws applicable to transactions in this state

HIGHLIGHTS OF HB 2066/SB 861

Public funds deposits:

- Clarifies that public funds may be deposited in any bank doing business in Texas.
- Current law ambiguous and confusing: restricting public fund deposits to banks domiciled/located/chartered in Texas.

HIGHLIGHTS OF HB 2066/SB 861

Registration with Secretary of State:

- Requires out-of-state banks to register with the Secretary of State.
- Gives state banks the option to do the same.
- Will benefit judgment creditors and financial institutions serving writs of garnishment, etc.

HIGHLIGHTS OF HB 2066/SB 861

Additional provisions:

- Allows branching for foreign banks.
- Permits branching for trust companies.
- Harmonizes Probate Code to provide for out-of-state branches doing business in Texas.

*WHAT HB 2066/SB 861 DOES **NOT** CHANGE*

- Five year age requirement
- 20% deposit cap
- Substantive law applicable to state savings banks
- Bank holding company regulatory scheme
- Franchise tax statute (see HB 2067)

WHY HB 2066/SB 861 IS NEEDED

- Need Legislative statement on the type of interstate branching Texas wants.
- Need to update laws to give notice and certainty regarding public depositories, potential litigants, and merger/acquisition applicants.
- Prevents case-by-case regulation and supervision.