



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
**ATTORNEY GENERAL**

August 15, 1957

Hon. J. M. Falkner, Commissioner  
Department of Banking  
Capital National Bank Building  
Austin, Texas

Opinion No. WW-228

Re: Does Article 881a-4, Vernon's  
R.C.S., 1948, mean that the  
certificate of authority to  
do business should be issued  
simultaneously with the ap-  
proval of the charter and by-  
laws?

Dear Mr. Falkner:

You have stated and asked the following:

"Article 881a-4, Vernon's R.C.S., 1948, reads as follows:

"When the Banking Commissioner of Texas shall have approved the organization certificate and the proposed by-laws and shall have issued the certificate of such approval and filing, it shall then issue a certificate of authority to do business. . . ."

"Does this Article in your opinion mean that the certificate of authority to do business should be issued simultaneously with the approval of the charter and by-laws?"

The approval of the charter and by-laws by the Commission is made a condition precedent to the issuance of the certificate of authority. The issuance of the certificate of authority must necessarily follow the approval of the charter and by-laws. The Banking Commissioner must issue the certificate of authority as soon as practicable after he has approved the charter and by-laws. The incorporators of a building and loan association, after the Commissioner has approved the charter and the by-laws, thereupon have the right to require the Banking Commissioner to issue the certificate of authority.

You are therefore accordingly advised that the certificate of authority to do business need not be issued "simultaneously" with the approval of the charter and by-laws, but should be issued as soon as practicable thereafter.

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SUMMARY

The Banking Commissioner is not required to issue the certificate of authority to do business of a building and loan association simultaneously with the approval of the charter and by-laws but must do so as soon as practicable thereafter.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By *Fred B. Werkenthin*  
Fred B. Werkenthin  
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FBW:lm

APPROVED:

OPINION COMMITTEE:

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REVIEWED FOR THE ATTORNEY GENERAL

BY:

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