

By: Lambert

H.B. No. 3805

A BILL TO BE ENTITLED

AN ACT

relating to certain enforcement powers of the banking commissioner regarding the regulation of money services businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 152, Finance Code, is amended by adding Sections 152.411, 152.412, and 152.413 to read as follows:

Sec. 152.411. REMOVAL OR PROHIBITION ORDER. (a) The commissioner may remove or prohibit a current or former key individual or employee of a money services licensee from office or employment in, or prohibit a control person or other person participating in the affairs of a money services licensee from further participation in a money services licensee or any other entity chartered, registered, permitted, or licensed by the commissioner if the commissioner determines from examination or other credible evidence that:

(1) the person:

(A) intentionally committed or participated in the commission of an act described by Section 152.408;

(B) intentionally committed, participated in the commission of, or caused a money services licensee to commit, an act described by Section 152.403;

(C) violated a final cease and desist order issued by a state or federal regulatory agency against the person or

an entity in which the person is or was a key individual, employee, or control person; or

(D) made, or caused to be made, false entries in the records of a money services licensee;

(2) because of this action by the person:

(A) the money services licensee has suffered or will probably suffer financial loss or expense or other damage;

(B) the interests of the customers, creditors, or shareholders of the money services licensee, including purchasers and holders of a money transmission licensee's outstanding money transmission obligations, have been or could be prejudiced; or

(C) the person has received financial gain or other benefit by reason of the action, or likely would have if the action had not been discovered; and

(3) the action:

(A) involves personal dishonesty on the part of the person; or

(B) demonstrates wilful or continuing disregard for the safety or soundness of the money services licensee.

(b) If the commissioner has grounds for action under Subsection (a) and finds that a removal or prohibition order appears to be necessary and in the best interest of the public, the commissioner may serve a proposed removal or prohibition order on a person alleged to have committed or participated in the action. An order issued under this section is subject to Section [152.409](#).

(c) The commissioner may make a removal or prohibition order perpetual or effective for a specific period of time, may probate

1 the order, or may impose other conditions on the order.

2 (d) The order takes effect if the person against whom the  
3 proposed order is directed does not request a hearing in writing  
4 before the effective date. If the person does not request a hearing  
5 before the effective date, the order is final and not appealable as  
6 to that person.

7 Sec. 152.412. REMOVAL OR PROHIBITION ORDERS IN RESPONSE TO  
8 CERTAIN CRIMINAL OFFENSES. (a) For purposes of this section, a  
9 person is considered to have been finally convicted of an offense if  
10 the person's case is not subject to further appellate review and:

11 (1) a sentence was imposed on the person;

12 (2) the person received probation or community  
13 supervision, including deferred adjudication community  
14 supervision; or

15 (3) the court deferred final disposition of the  
16 person's case.

17 (b) The commissioner may remove or prohibit a current or  
18 former key individual or employee of a money services licensee from  
19 office or employment in, or prohibit a control person or other  
20 person participating in the affairs of a money services licensee  
21 from further participation in the affairs of a money services  
22 licensee, or any other entity chartered, registered, permitted, or  
23 licensed by the commissioner if the person has been finally  
24 convicted of a felony offense involving:

25 (1) a business engaged in money services;

26 (2) dishonesty; or

27 (3) breach of trust.

1        (c) If the commissioner has grounds for action under  
2 Subsection (b), the commissioner may serve a removal or prohibition  
3 order, as appropriate, on the person who has been finally convicted  
4 of a felony offense. The commissioner shall also serve a copy of  
5 the order on any money services licensee that the person is  
6 affiliated with at the time of service of the order.

7        (d) Notwithstanding Section 152.409, an order issued under  
8 this section becomes effective immediately on service and continues  
9 in effect unless the order is:

10            (1) stayed or terminated by the commissioner;

11            (2) set aside by the commissioner after a hearing; or

12            (3) stayed or vacated on appeal.

13        (e) Not later than the 30th day after the date an order is  
14 served under this section, the person against whom the order is  
15 issued may request in writing a hearing before the commissioner to  
16 show that the person's continued service to a money services  
17 licensee or participation in the affairs of a money services  
18 licensee does not, or is unlikely to, threaten the interests of the  
19 money services licensee, the money services licensee's customers,  
20 or the public confidence in the money services licensee.

21        (f) Not later than the 30th day after the date the request  
22 for a hearing is received under this section, the commissioner  
23 shall hold the hearing, unless the party requesting the hearing  
24 requests a later date. At the hearing, the party requesting the  
25 hearing has the burden of proof.

26        (g) After the hearing, the commissioner may affirm, modify,  
27 or set aside, in whole or in part, the order. An order affirming or

1 modifying the order is immediately final for purposes of  
2 enforcement and appeal. The order may be appealed as provided by  
3 Section 152.409.

4 Sec. 152.413. APPLICATION FOR RELEASE FROM FINAL REMOVAL OR  
5 PROHIBITION ORDER. (a) After the expiration of 10 years from the  
6 date of issuance, a person who is subject to a removal or  
7 prohibition order issued under this subchapter, regardless of the  
8 order's stated duration or date of issuance, may apply to the  
9 commissioner to be released from the order.

10 (b) The application must be made under oath and in the form  
11 required by the commissioner. The application must be accompanied  
12 by any required fees.

13 (c) The commissioner, in the exercise of discretion, may  
14 approve or deny an application filed under this section.

15 (d) The commissioner's decision under Subsection (c) is  
16 final and not appealable.

17 SECTION 2. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2025.