

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 from further participation in the 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) engaged in conduct 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

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

3 (2) because of this action by the person:

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

6 (B) the interests of the customers, creditors, or
7 shareholders of the money services licensee have been or could be
8 prejudiced; or

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

12 (3) the action:

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

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

17 (b) If the commissioner has grounds for action under
18 Subsection (a) and finds that a removal or prohibition order
19 appears to be necessary and in the best interest of the public, the
20 commissioner may serve a proposed removal or prohibition order on a
21 person alleged to have committed or participated in the action.

22 (c) The commissioner may make a removal or prohibition order
23 perpetual or effective for a specific period of time, may probate
24 the order, or may impose other conditions on the order.

25 (d) The order takes effect if the person against whom the
26 proposed order is directed does not request a hearing in writing
27 before the effective date. If the person does not request a hearing

1 before the effective date, the order is final and not appealable as
2 to that person.

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

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

8 (2) the person received probation or community
9 supervision, including deferred adjudication community
10 supervision; or

11 (3) the court deferred final disposition of the
12 person's case.

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

21 (1) a business engaged in money services;

22 (2) dishonesty; or

23 (3) breach of trust.

24 (c) If the commissioner has grounds for action under
25 Subsection (b), the commissioner may serve a removal or prohibition
26 order, as appropriate, on the person who has been finally convicted
27 of a felony offense. The commissioner shall also serve a copy of

1 the order on any money services licensee that the person is
2 affiliated with at the time of service of the order.

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

6 (1) stayed or terminated by the commissioner;

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

8 (3) stayed or vacated on appeal.

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

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

22 (g) After the hearing, the commissioner may affirm, modify,
23 or set aside, in whole or in part, the order. An order affirming or
24 modifying the order is immediately final for purposes of
25 enforcement and appeal. The order may be appealed as provided by
26 Section 152.409.

27 Sec. 152.413. APPLICATION FOR RELEASE FROM FINAL REMOVAL OR

1 PROHIBITION ORDER. (a) After the expiration of 10 years from the
2 date of issuance, a person who is subject to a removal or
3 prohibition order issued under this subchapter, regardless of the
4 order's stated duration or date of issuance, may apply to the
5 commissioner to be released from the order.

6 (b) The application must be made under oath and in the form
7 required by the commissioner. The application must be accompanied
8 by any required fees.

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

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

13 SECTION 2. This Act takes effect September 1, 2025.