

1-1 By: Carona S.B. No. 1165
1-2 (In the Senate - Filed March 4, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 March 24, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 24, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1165 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain enforcement powers of the banking commissioner;
1-11 providing administrative penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 35.003, Finance Code, is amended by
1-14 amending Subsections (a) and (b) and adding Subsection (b-1) to
1-15 read as follows:

1-16 (a) The banking commissioner has grounds to remove or
1-17 prohibit a present or former officer, director, or employee of a
1-18 state bank from office or employment in, or prohibit a controlling
1-19 shareholder or other person participating in the affairs of a state
1-20 bank from further participation in the affairs of, a state bank or
1-21 any other entity chartered, registered, permitted, or licensed by
1-22 the banking commissioner if the banking commissioner determines
1-23 from examination or other credible evidence that:

1-24 (1) the person:

1-25 (A) intentionally committed or participated in
1-26 the commission of an act described by Section 35.002(a) with regard
1-27 to the affairs of a financial institution, as defined by Section
1-28 201.101 [the bank]; [or]

1-29 (B) violated a final cease and desist order
1-30 issued by a state or federal regulatory agency against the person or
1-31 an entity in which the person is or was an officer, director, or
1-32 employee [in response to the same or a similar act]; or

1-33 (C) made, or caused to be made, false entries in
1-34 the records of a financial institution;

1-35 (2) because of this action by the person:

1-36 (A) the financial institution [~~bank~~] has
1-37 suffered or will probably suffer financial loss or expense, or
1-38 other damage;

1-39 (B) the interests of the [~~bank's~~] depositors,
1-40 creditors, or shareholders of the financial institution have been
1-41 or could be prejudiced; or

1-42 (C) the person has received financial gain or
1-43 other benefit by reason of the action, or likely would have if the
1-44 action had not been discovered; and

1-45 (3) the action:

1-46 (A) involves personal dishonesty on the part of
1-47 the person; or

1-48 (B) demonstrates wilful or continuing disregard
1-49 for the safety or soundness of the financial institution [~~bank~~].

1-50 (b) If the banking commissioner has grounds for action under
1-51 Subsection (a) and finds that a removal or prohibition order
1-52 appears to be necessary and in the best interest of the bank
1-53 involved and its depositors, creditors, or [~~and~~] shareholders, the
1-54 banking commissioner may serve a proposed removal or prohibition
1-55 order, as appropriate, on a person alleged to have committed or
1-56 participated in the action. The proposed order must:

1-57 (1) be delivered by personal delivery or by registered
1-58 or certified mail, return receipt requested;

1-59 (2) state with reasonable certainty the grounds for
1-60 removal or prohibition; [~~and~~]

1-61 (3) state the effective date of the order, which may
1-62 not be before the 21st day after the date the proposed order is
1-63 delivered or mailed; and

2-1 (4) state the duration of the order, including whether
2-2 the duration of the order is perpetual.

2-3 (b-1) The banking commissioner may make a removal or
2-4 prohibition order perpetual or effective for a specific period of
2-5 time, may probate the order, or may impose other conditions on the
2-6 order.

2-7 SECTION 2. Subsection (b), Section 35.005, Finance Code, is
2-8 amended to read as follows:

2-9 (b) In each emergency order the banking commissioner shall
2-10 notify the bank and any person against whom the emergency order is
2-11 directed of:

2-12 (1) the specific conduct requiring the order;
2-13 (2) the citation of each law alleged to have been
2-14 violated;

2-15 (3) the immediate and irreparable harm alleged to be
2-16 threatened; ~~and~~

2-17 (4) the duration of the order, including whether the
2-18 duration of the order is perpetual; and

2-19 (5) the right to a hearing.

2-20 SECTION 3. Subsection (a), Section 35.007, Finance Code, is
2-21 amended to read as follows:

2-22 (a) Except as otherwise provided by law, without the prior
2-23 written approval of the banking commissioner, a person subject to a
2-24 final and enforceable removal or prohibition order issued by the
2-25 banking commissioner, or by another state, federal, or foreign
2-26 financial institution regulatory agency, may not:

2-27 (1) serve as a director, officer, or employee of a
2-28 state bank or ~~trust~~ trust company, or as a director, officer, or
2-29 employee with financial responsibility of any other entity
2-30 chartered, registered, permitted, or licensed by the banking
2-31 commissioner under the laws of this state~~[, including an interstate~~
2-32 ~~branch, trust office, or representative office in this state of an~~
2-33 ~~out-of-state state bank, trust company, or foreign bank];~~

2-34 (2) directly or indirectly participate in any manner
2-35 in the management of such an entity;

2-36 (3) directly or indirectly vote for a director of such
2-37 an entity; or

2-38 (4) solicit, procure, transfer, attempt to transfer,
2-39 vote, or attempt to vote a proxy, consent, or authorization with
2-40 respect to voting rights in such an entity.

2-41 SECTION 4. Subchapter A, Chapter 35, Finance Code, is
2-42 amended by adding Section 35.0071 to read as follows:

2-43 Sec. 35.0071. APPLICATION FOR RELEASE FROM FINAL REMOVAL OR
2-44 PROHIBITION ORDER. (a) After the expiration of 10 years from date
2-45 of issuance, a person who is subject to a prohibition or removal
2-46 order issued under this subchapter, regardless of the order's
2-47 stated duration or date of issuance, may apply to the banking
2-48 commissioner to be released from the order.

2-49 (b) The application must be made under oath and in the form
2-50 required by the banking commissioner. The application must be
2-51 accompanied by any required fees.

2-52 (c) The banking commissioner, in the exercise of
2-53 discretion, may approve or deny an application filed under this
2-54 section.

2-55 (d) The banking commissioner's decision under Subsection
2-56 (c) is final and not appealable.

2-57 SECTION 5. Section 35.009, Finance Code, is amended to read
2-58 as follows:

2-59 Sec. 35.009. ENFORCEMENT BY COMMISSIONER ~~[OF FINAL ORDER].~~

2-60 (a) If the banking commissioner reasonably believes that a bank or
2-61 other person has violated any of the following, the banking
2-62 commissioner may take any action authorized under Subsection (a-1):

2-63 (1) this subtitle or rules enacted under this subtitle
2-64 and, as a result of that violation, exposed or could have exposed
2-65 the bank or the bank's depositors, creditors, or shareholders to
2-66 harm;

2-67 (2) other applicable law of this state and, as a result
2-68 of that violation, exposed or could have exposed the bank or the
2-69 bank's depositors, creditors, or shareholders to harm; or

3-1 (3) a final order issued by the banking commissioner.
3-2 (a-1) ~~The [a final and enforceable cease and desist,~~
3-3 ~~removal, or prohibition order issued under this subchapter, the]~~
3-4 banking commissioner may:

3-5 (1) initiate an administrative penalty proceeding
3-6 against the bank or other person, in accordance with Sections
3-7 ~~[under Section]~~ 35.010 and 35.011;

3-8 (2) refer the matter to the attorney general for
3-9 enforcement by injunction or other available remedy; or

3-10 (3) pursue any other action the banking commissioner
3-11 considers appropriate under applicable law.

3-12 (b) If the attorney general prevails in an action brought
3-13 under Subsection (a-1)(2) ~~[(a)(2)]~~, the attorney general is
3-14 entitled to recover reasonable attorney's fees from the bank or
3-15 person committing the violation ~~[violating the order]~~.

3-16 SECTION 6. Section 35.010, Finance Code, is amended to read
3-17 as follows:

3-18 Sec. 35.010. ADMINISTRATIVE PENALTY. (a) The banking
3-19 commissioner may initiate a proceeding for an administrative
3-20 penalty against a bank or other person by serving on the bank or
3-21 other person, as applicable, notice of the time and place of a
3-22 hearing on the penalty. The hearing may not be held earlier than
3-23 the 20th day after the date the notice is served. The notice must:

3-24 (1) be served by personal delivery or by registered or
3-25 certified mail, return receipt requested; ~~[and]~~

3-26 (2) contain a statement of the conduct alleged to
3-27 constitute a violation; and

3-28 (3) if the alleged violation is described by Section
3-29 35.009(a)(1) or (2), identify corrective action that the bank or
3-30 other person must take to avoid or reduce the amount of a penalty
3-31 that would otherwise be imposed under this section ~~[violate the~~
3-32 ~~order]~~.

3-33 (b) In determining the amount of any penalty to be imposed
3-34 ~~[whether an order has been violated]~~, the banking commissioner
3-35 shall consider the following factors:

3-36 (1) the financial resources of the bank or other
3-37 person;

3-38 (2) the good faith of the bank or other person,
3-39 including any corrective action taken;

3-40 (3) the gravity of the violation;

3-41 (4) the history of previous violations;

3-42 (5) an offset of the amount of the penalty by the
3-43 amount of any penalty imposed by another state or federal agency for
3-44 the same conduct; and

3-45 (6) any other matter that justice may require
3-46 ~~[maintenance of procedures reasonably adopted to ensure compliance~~
3-47 ~~with the order]~~.

3-48 (c) If the banking commissioner determines after the
3-49 hearing that the alleged conduct occurred and that the conduct
3-50 constitutes a violation ~~[order has been violated]~~, the banking
3-51 commissioner may impose an administrative penalty against a ~~[the]~~
3-52 bank or other person, as applicable, in an amount:

3-53 (1) if imposed against a bank, not less than \$500 and
3-54 not more than \$10,000 for each violation for each day the violation
3-55 continues, except that the maximum administrative penalty that may
3-56 be imposed is the lesser of \$500,000 or one percent of the bank's
3-57 assets; or

3-58 (2) if imposed against a person other than a bank, not
3-59 less than \$500 and not more than \$5,000 for each violation for each
3-60 day the violation continues, except that the maximum administrative
3-61 penalty that may be imposed is \$250,000 ~~[not to exceed \$500 for each~~
3-62 ~~day the bank violates the final order]~~.

3-63 SECTION 7. Section 35.011, Finance Code, is amended to read
3-64 as follows:

3-65 Sec. 35.011. PAYMENT OR APPEAL OF ADMINISTRATIVE PENALTY.

3-66 (a) When a penalty order under Section 35.010 becomes final, the
3-67 bank or other person, as applicable, shall pay the penalty or appeal
3-68 by filing a petition for judicial review.

3-69 (b) The petition for judicial review stays the penalty order

4-1 during the period preceding the decision of the court. If the court
 4-2 sustains the order, the court shall order the bank or other person,
 4-3 as applicable, to pay the full amount of the penalty or a lower
 4-4 amount determined by the court. If the court does not sustain the
 4-5 order, a penalty is not owed. If the final judgment of the court
 4-6 requires payment of a penalty, interest accrues on the penalty, at
 4-7 the rate charged on loans to depository institutions by the Federal
 4-8 Reserve Bank of New York, beginning on the date the judgment is
 4-9 final and ending on the date the penalty and interest are paid.

4-10 (c) If the bank or other person, as applicable, does not pay
 4-11 the penalty imposed under a final and nonappealable penalty order,
 4-12 the banking commissioner shall refer the matter to the attorney
 4-13 general for enforcement. The attorney general is entitled to
 4-14 recover reasonable attorney's fees from the bank or other person,
 4-15 as applicable, if the attorney general prevails in judicial action
 4-16 necessary for collection of the penalty.

4-17 SECTION 8. Section 35.012, Finance Code, is amended to read
 4-18 as follows:

4-19 Sec. 35.012. CONFIDENTIALITY OF RECORDS. A copy of a
 4-20 notice, correspondence, transcript, pleading, or other document in
 4-21 the records of the department relating to an order issued under this
 4-22 subchapter is confidential and may be released only as provided by
 4-23 Subchapter D, Chapter 31, except that the banking commissioner
 4-24 periodically shall publish all final removal and prohibition
 4-25 orders. The banking commissioner may release a final cease and
 4-26 desist order, a final order imposing an administrative penalty, or
 4-27 information regarding the existence of any of those orders [~~the~~
 4-28 ~~order~~] to the public if the banking commissioner concludes that the
 4-29 release would enhance effective enforcement of the order.

4-30 SECTION 9. Section 185.003, Finance Code, is amended by
 4-31 amending Subsections (a) and (b) and adding Subsection (b-1) to
 4-32 read as follows:

4-33 (a) The banking commissioner has grounds to remove or
 4-34 prohibit a present or former officer, director, manager, managing
 4-35 participant, or employee of a state trust company from office or
 4-36 employment in, or [~~to~~] prohibit a controlling shareholder or
 4-37 participant or other person from participation in the affairs of,
 4-38 the state trust company or any other entity chartered, registered,
 4-39 permitted, or licensed by the banking commissioner if the banking
 4-40 commissioner determines from examination or other credible
 4-41 evidence that:

4-42 (1) the person:

4-43 (A) intentionally committed or participated in
 4-44 the commission of an act described by Section 185.002(a) with
 4-45 regard to the affairs of a financial institution, as defined by
 4-46 Section 201.101 [~~the state trust company~~]; [~~or~~]

4-47 (B) violated a final cease and desist order
 4-48 issued by a state or federal regulatory agency against the person or
 4-49 an entity in which the person is or was an officer, director, or
 4-50 employee [~~in response to the same or a similar act~~]; or

4-51 (C) made, or caused to be made, false entries in
 4-52 the records of a financial institution;

4-53 (2) because of this [~~that~~] action by the person:

4-54 (A) the financial institution [~~state trust~~
 4-55 ~~company~~] has suffered or will probably suffer financial loss or
 4-56 expense, or other damage;

4-57 (B) the interests of the [~~trust company's~~]
 4-58 clients, depositors, creditors, or shareholders of the financial
 4-59 institution have been or could be prejudiced; or

4-60 (C) the person has received financial gain or
 4-61 other benefit by reason of the action, or likely would have if the
 4-62 action had not been discovered [~~violation~~]; and

4-63 (3) that action by the person:

4-64 (A) involves personal dishonesty on the part of
 4-65 the person; or

4-66 (B) demonstrates wilful or continuing disregard
 4-67 for the safety or soundness of the financial institution [~~state~~
 4-68 ~~trust company~~].

4-69 (b) If the banking commissioner has grounds for action under

5-1 Subsection (a) and finds that a removal or prohibition order
5-2 appears to be necessary and in the best interest of the state trust
5-3 company involved and its clients, creditors, ~~and~~ shareholders, or
5-4 participants, the banking commissioner may serve a proposed removal
5-5 or prohibition order, as appropriate, on an officer, employee,
5-6 director, manager or managing participant, controlling shareholder
5-7 or participant, or other person alleged to have committed or
5-8 participated in the violation or other conduct described by Section
5-9 185.002(a). The order must:

5-10 (1) be delivered by personal delivery or by registered
5-11 or certified mail, return receipt requested;

5-12 (2) state with reasonable certainty the grounds for
5-13 removal or prohibition; ~~and~~

5-14 (3) state the effective date of the order, which may
5-15 not be before ~~earlier than~~ the 21st day after the date the
5-16 proposed order is delivered or mailed; and

5-17 (4) state the duration of the order, including whether
5-18 the duration of the order is perpetual ~~or delivered~~.

5-19 (b-1) The banking commissioner may make a removal or
5-20 prohibition order perpetual or effective for a specific period of
5-21 time, may probate the order, or may impose other conditions on the
5-22 order.

5-23 SECTION 10. Subsection (b), Section 185.005, Finance Code,
5-24 is amended to read as follows:

5-25 (b) In each emergency order the banking commissioner shall
5-26 notify the state trust company and any person against whom the
5-27 emergency order is directed of:

5-28 (1) the specific conduct requiring the order;

5-29 (2) the citation of each statute or rule alleged to
5-30 have been violated;

5-31 (3) the immediate and irreparable harm alleged to be
5-32 threatened; ~~and~~

5-33 (4) the duration of the order, including whether the
5-34 duration of the order is perpetual; and

5-35 (5) the right to a hearing.

5-36 SECTION 11. Subsection (a), Section 185.007, Finance Code,
5-37 is amended to read as follows:

5-38 (a) Except as provided by other law, without the prior
5-39 written approval of the banking commissioner, a person subject to a
5-40 final and enforceable removal or prohibition order issued by the
5-41 banking commissioner, or by another state, federal, or foreign
5-42 financial institution regulatory agency, may not:

5-43 (1) serve as a director, officer, or employee of a
5-44 state trust company or ~~or~~ state bank, or as a director, officer, or
5-45 employee with financial responsibility of any other entity
5-46 chartered, registered, permitted, or licensed by the banking
5-47 commissioner under the laws of this state while the order is in
5-48 effect, ~~including an interstate branch, trust office, or~~
5-49 ~~representative office in this state of an out-of-state bank, trust~~
5-50 ~~company, or foreign bank~~;

5-51 (2) directly or indirectly participate in any manner
5-52 in the management of such an entity;

5-53 (3) directly or indirectly vote for a director of such
5-54 an entity; or

5-55 (4) solicit, procure, transfer, attempt to transfer,
5-56 vote, or attempt to vote a proxy, consent, or authorization with
5-57 respect to voting rights in such an entity.

5-58 SECTION 12. Subchapter A, Chapter 185, Finance Code, is
5-59 amended by adding Section 185.0071 to read as follows:

5-60 Sec. 185.0071. APPLICATION FOR RELEASE FROM FINAL REMOVAL
5-61 OR PROHIBITION ORDER. (a) After the expiration of 10 years from
5-62 the date of issuance, a person who is subject to a prohibition or
5-63 removal order issued under this subchapter, regardless of the
5-64 order's stated duration or date of issuance, may apply to the
5-65 banking commissioner to be released from the order.

5-66 (b) The application must be made under oath and in the form
5-67 required by the banking commissioner. The application must be
5-68 accompanied by any required fees.

5-69 (c) The banking commissioner, in the exercise of

6-1 discretion, may approve or deny an application filed under this
 6-2 section.

6-3 (d) The banking commissioner's decision under Subsection
 6-4 (c) is final and not appealable.

6-5 SECTION 13. Section 185.009, Finance Code, is amended to
 6-6 read as follows:

6-7 Sec. 185.009. ENFORCEMENT BY COMMISSIONER [~~OF FINAL ORDER~~].

6-8 (a) If the banking commissioner reasonably believes that a state
 6-9 trust company or other person has violated any of the following, the
 6-10 banking commissioner may take any action authorized under
 6-11 Subsection (a-1):

6-12 (1) this subtitle or rules enacted under this subtitle
 6-13 and, as a result of that violation, exposed or could have exposed
 6-14 the state trust company or its clients, creditors, shareholders, or
 6-15 participants to harm;

6-16 (2) other applicable law of this state and, as a result
 6-17 of that violation, exposed or could have exposed the state trust
 6-18 company or its clients, creditors, shareholders, or participants to
 6-19 harm; or

6-20 (3) a final order issued by the banking commissioner.

6-21 (a-1) ~~The [a final and enforceable cease and desist,~~
 6-22 ~~removal, or prohibition order issued under this subchapter, the]~~
 6-23 banking commissioner may:

6-24 (1) initiate administrative penalty proceedings
 6-25 against the state trust company or other person, as applicable, in
 6-26 accordance with Sections [~~under Section~~] 185.010 and 185.011;

6-27 (2) refer the matter to the attorney general for
 6-28 enforcement by injunction or other available remedy; or

6-29 (3) pursue any other action the banking commissioner
 6-30 considers appropriate under applicable law.

6-31 (b) If the attorney general prevails in an action brought
 6-32 under Subsection (a-1)(2) [~~(a)(2)~~], the attorney general is
 6-33 entitled to recover reasonable attorney's fees from a state trust
 6-34 company or person committing the violation [~~violating the order~~].

6-35 SECTION 14. Section 185.010, Finance Code, is amended to
 6-36 read as follows:

6-37 Sec. 185.010. ADMINISTRATIVE PENALTY. (a) The banking
 6-38 commissioner may initiate a proceeding for an administrative
 6-39 penalty against a state trust company or other person by serving on
 6-40 the state trust company or other person, as applicable, notice of
 6-41 the time and place of a hearing on the penalty. The hearing may not
 6-42 be held earlier than the 20th day after the date the notice is
 6-43 served. The notice must:

6-44 (1) be served by personal delivery or by registered or
 6-45 certified mail, return receipt requested; [~~and~~]

6-46 (2) contain a statement of the conduct alleged to
 6-47 constitute a [~~be in~~] violation; and

6-48 (3) if the alleged violation is described by Section
 6-49 185.009(a)(1) or (2), identify corrective action that the state
 6-50 trust company or other person must take to avoid or reduce the
 6-51 amount of a penalty that would otherwise be imposed under this
 6-52 section [~~of the order~~].

6-53 (b) In determining the amount of any penalty to be imposed
 6-54 [~~whether an order has been violated~~], the banking commissioner
 6-55 shall consider the following factors:

6-56 (1) the financial resources of the state trust company
 6-57 or other person;

6-58 (2) the good faith of the state trust company or other
 6-59 person, including any corrective action taken;

6-60 (3) the gravity of the violation;

6-61 (4) the history of previous violations;

6-62 (5) an offset of the amount of the penalty by the
 6-63 amount of any penalty imposed by another state or federal agency for
 6-64 the same conduct; and

6-65 (6) any other matter that justice may require
 6-66 [~~maintenance of procedures reasonably adopted to ensure compliance~~
 6-67 ~~with the order~~].

6-68 (c) If the banking commissioner determines after the
 6-69 hearing that the alleged conduct occurred and that the conduct

7-1 constitutes a violation [an order has been violated], the banking
7-2 commissioner may impose an administrative penalty against a state
7-3 trust company or other person, as applicable, in an amount:

7-4 (1) if imposed against a state trust company, not less
7-5 than \$500 and not more than \$10,000 for each violation for each day
7-6 the violation continues, except that the maximum administrative
7-7 penalty that may be imposed is the lesser of \$500,000 or one percent
7-8 of the state trust company's assets; or

7-9 (2) if imposed against a person other than a state
7-10 trust company, not less than \$500 and not more than \$5,000 for each
7-11 violation for each day the violation continues, except that the
7-12 maximum administrative penalty that may be imposed is \$250,000 [not
7-13 to exceed \$500 for each day the state trust company violates the
7-14 final order].

7-15 SECTION 15. Section 185.011, Finance Code, is amended to
7-16 read as follows:

7-17 Sec. 185.011. PAYMENT OR APPEAL OF ADMINISTRATIVE PENALTY.

7-18 (a) When a penalty order under Section 185.010 becomes final, a
7-19 state trust company or other person, as applicable, shall pay the
7-20 penalty or appeal by filing a petition for judicial review.

7-21 (b) The petition for judicial review stays the penalty order
7-22 during the period preceding the decision of the court. If the court
7-23 sustains the order, the court shall order the state trust company or
7-24 other person, as applicable, to pay the full amount of the penalty
7-25 or a lower amount determined by the court. If the court does not
7-26 sustain the order, a penalty is not owed. If the final judgment of
7-27 the court requires payment of a penalty, interest accrues on the
7-28 penalty, at the rate charged on loans to depository institutions by
7-29 the ~~[New York]~~ Federal Reserve Bank of New York, beginning on the
7-30 date the judgment is final and ending on the date the penalty and
7-31 interest are paid.

7-32 (c) If the state trust company or other person, as
7-33 applicable, does not pay the penalty imposed under a final and
7-34 nonappealable penalty order, the banking commissioner shall refer
7-35 the matter to the attorney general for enforcement. The attorney
7-36 general is entitled to recover reasonable attorney's fees from the
7-37 state trust company or other person, as applicable, if the attorney
7-38 general prevails in judicial action necessary for collection of the
7-39 penalty.

7-40 SECTION 16. Section 185.012, Finance Code, is amended to
7-41 read as follows:

7-42 Sec. 185.012. CONFIDENTIALITY OF RECORDS. A copy of a
7-43 notice, correspondence, transcript, pleading, or other document in
7-44 the records of the department relating to an order issued under this
7-45 subchapter is confidential and may be released only as provided by
7-46 Subchapter D, Chapter 181, except that the banking commissioner
7-47 periodically shall publish all final removal and prohibition
7-48 orders. The banking commissioner may release a final cease and
7-49 desist order, a final order imposing an administrative penalty, or
7-50 information regarding [relating to] the existence of any of those
7-51 orders [the order] to the public if the banking commissioner
7-52 concludes that the release would enhance effective enforcement of
7-53 the order.

7-54 SECTION 17. Subsection (a), Section 202.005, Finance Code,
7-55 is amended to read as follows:

7-56 (a) The commissioner may:

7-57 (1) examine a bank holding company that controls a
7-58 Texas bank to the same extent as if the bank holding company were a
7-59 Texas state bank; and

7-60 (2) bring an enforcement proceeding under Chapter 35
7-61 against a bank holding company or other person that violates or
7-62 participates in a violation of Subtitle A, an agreement filed with
7-63 the commissioner under this chapter, or a rule adopted by the
7-64 finance commission or order issued by the commissioner under
7-65 Subtitle A, as if the bank holding company were a Texas state bank.

7-66 SECTION 18. The changes in law made by this Act apply only
7-67 to conduct occurring on or after the effective date of this Act.
7-68 Conduct occurring before the effective date of this Act is governed
7-69 by the law in effect on the date the conduct occurred, and the

8-1 former law is continued in effect for that purpose.
8-2 SECTION 19. This Act takes effect immediately if it
8-3 receives a vote of two-thirds of all the members elected to each
8-4 house, as provided by Section 39, Article III, Texas Constitution.
8-5 If this Act does not receive the vote necessary for immediate
8-6 effect, this Act takes effect September 1, 2011.

8-7

* * * * *