

BILL ANALYSIS

Senate Research Center
89R18476 PRL-D

H.B. 3805
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

By request of the Department of Banking (TDB), H.B. 3085 would expand upon the work done by S.B. 895 in the 88th Regular Session to streamline regulation regarding money services businesses. Currently, TDB has the authority to prohibit and/or remove individuals from participating in the affairs of an entity regulated by TDB if the banking commissioner determines the individual engaged in certain malfeasant activity, however, they do not have this authority when it comes to money services businesses.

H.B. 3805 would enable TDB to prohibit and/or remove individuals from participating in money service businesses under Chapter 152.

H.B. 3805 would also amend language to more closely mirror either prohibition and/or removal language for other entities under the jurisdiction of TDB. This would enable the commissioner with the necessary tools to prevent bad actors from further harming Texas consumers.

H.B. 3805 amends current law relating to certain enforcement powers of the banking commissioner regarding the regulation of money services businesses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

Sec. 152.411. REMOVAL OR PROHIBITION ORDER. (a) Authorizes the banking commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority (commissioner) to 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 committed certain acts or violations;
- (2) because of this action by the person, certain events occur; and
- (3) the action involves personal dishonesty on the part of the person or demonstrates wilful or continuing disregard for the safety or soundness of the money services licensee.

(b) Authorizes the commissioner, 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, to serve a proposed removal or prohibition order on a person alleged to have committed or participated in the action. Provides that an order issued under this section is subject to Section 152.409 (Notice, Hearing, and Other Procedures for Nonemergency Orders).

(c) Authorizes the commissioner to make a removal or prohibition order perpetual or effective for a specific period of time, probate the order, or impose other conditions on the order.

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

Sec. 152.412. REMOVAL OR PROHIBITION ORDERS IN RESPONSE TO CERTAIN CRIMINAL OFFENSES. (a) Provides that, for purposes of this section, a person is considered to have been finally convicted of an offense if the person's case is not subject to further appellate review and a sentence was imposed on the person, the person received probation or community supervision, including deferred adjudication community supervision, or the court deferred final disposition of the person's case.

(b) Authorizes the commissioner to 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 the affairs of a money services licensee, or any other entity chartered, registered, permitted, or licensed by the commissioner if the person has been finally convicted of a felony offense involving a business engaged in money services, dishonesty, or breach of trust.

(c) Authorizes the commissioner, if the commissioner has grounds for action under Subsection (b), to serve a removal or prohibition order, as appropriate, on the person who has been finally convicted of a felony offense. Requires the commissioner to also serve a copy of the order on any money services licensee that the person is affiliated with at the time of service of the order.

(d) Provides that, notwithstanding Section 152.409, an order issued under this section becomes effective immediately on service and continues in effect unless the order is stayed or terminated by the commissioner, set aside by the commissioner after a hearing, or stayed or vacated on appeal.

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

(f) Requires the commissioner, not later than the 30th day after the date the request for a hearing is received under this section, to hold the hearing, unless the party requesting the hearing requests a later date. Provides that, at the hearing, the party requesting the hearing has the burden of proof.

(g) Authorizes the commissioner, after the hearing, to affirm, modify, or set aside, in whole or in part, the order. Provides that an order affirming or modifying the order is immediately final for purposes of enforcement and appeal. Authorizes the order to be appealed as provided by Section 152.409.

Sec. 152.413. APPLICATION FOR RELEASE FROM FINAL REMOVAL OR PROHIBITION ORDER. (a) Authorizes a person who is subject to a removal or

prohibition order issued under this subchapter, regardless of the order's stated duration or date of issuance, after the expiration of 10 years from the date of issuance, to apply to the commissioner to be released from the order.

(b) Requires that the application be made under oath and in the form required by the commissioner. Requires that the application be accompanied by any required fees.

(c) Authorizes the commissioner, in the exercise of discretion, to approve or deny an application filed under this section.

(d) Provides that the commissioner's decision under Subsection (c) is final and not appealable.

SECTION 2. Effective date: upon passage or September 1, 2025.