

## **BILL ANALYSIS**

C.S.H.B. 3805

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Pensions, Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill author has informed the committee that the Texas Department of Banking is currently authorized to remove or prohibit certain individuals from participating in the affairs of an entity regulated by the department if the commissioner determines the individual engaged in certain malfeasant activity; however, this authority does not extend to money services businesses. C.S.H.B. 3805 seeks to ensure that the department has the necessary tools to prevent bad actors from harming Texas consumers by authorizing the banking commissioner to remove or prohibit individuals who have conducted certain acts from participating in money services businesses.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3805 amends the Finance Code to authorize the banking commissioner of Texas or a person designated by the commissioner and acting under the commissioner's direction and authority to remove or prohibit a current or former key individual or employee of a money services licensee from office or employment in, or to 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 or designee if the commissioner or designee determines the following from examination or other credible evidence:

- that the person:
  - intentionally committed or participated in the commission of an act considered an offense under the Money Services Modernization Act;
  - intentionally committed, participated in the commission of, or caused a money services licensee to commit an act subjecting an individual to suspension or revocation of a money services license or the revocation of a designation as an authorized delegate for a money transmission license under that act;
  - 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
  - made, or caused to be made, false entries in the records of a money services licensee;
- that because of this action by the person the following occurs:

- the money services licensee has suffered or will probably suffer financial loss or expense or other damage;
- 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
- 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
- that 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.

C.S.H.B. 3805 authorizes the commissioner or designee, if the commissioner or designee has grounds for action under the bill 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. The bill establishes that such an order is subject to statutory provisions relating to notices, hearings, and other procedures for nonemergency orders in the regulation of money services businesses.

C.S.H.B. 3805 authorizes the commissioner or designee 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. The bill establishes that, if the person against whom the proposed order is directed does not request a hearing in writing before the effective date, the order takes effect and the order is final and not appealable as to that person.

C.S.H.B. 3805 authorizes the commissioner or designee to remove or prohibit a current or former key individual or employee of a money services licensee from office or employment in, or to prohibit a control person or other person participating in the affairs of a money services licensee from further participation in the affairs of the licensee, or any other entity chartered, registered, permitted, or licensed by the commissioner or designee if the person has been finally convicted of a felony offense involving a business engaged in money services, dishonesty, or breach of trust. For these purposes, 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 one of the following circumstances occurred:

- 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.

C.S.H.B. 3805 authorizes the commissioner or designee, if the commissioner or designee has grounds for taking such action authorized by the bill, to serve a removal or prohibition order, as appropriate, on the person who has been finally convicted of the felony offense. The bill requires the commissioner or designee 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. The bill establishes that an order issued under these provisions becomes effective immediately on service and continues in effect unless the order is stayed or terminated by the commissioner or designee, set aside by the commissioner or designee after a hearing, or stayed or vacated on appeal.

C.S.H.B. 3805 authorizes a person against whom an order is issued, not later than the 30th day after the date the order is served, to request in writing a hearing before the commissioner or designee 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. The bill requires the commissioner or designee to hold the hearing not later than the 30th day after the date the request is received, unless the party requesting the hearing requests a later date. At the hearing, the party requesting the hearing has the burden of proof. The bill authorizes the commissioner or designee to affirm, modify, or set aside, in whole

or in part, the order after the hearing. An order affirming or modifying the order is immediately final for purposes of enforcement and appeal. The bill authorizes the order to be appealed as provided under provisions of the Money Services Modernization Act relating to notice, hearing, and other procedures for nonemergency orders.

C.S.H.B. 3805 authorizes a person who is subject to a removal or prohibition order issued under the bill's provisions, after the expiration of 10 years from the date of issuance, to apply to the commissioner or designee to be released from the order regardless of the order's stated duration or date of issuance. The bill requires the application to be made under oath and in the form required by the commissioner or designee and to be accompanied by any required fees. The bill authorizes the commissioner or designee, in the exercise of discretion, to approve or deny such an application and establishes that the decision is final and not appealable.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 3805 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute authorize the commissioner or the commissioner's designee to remove or prohibit a control person or other person from further participation in a money services licensee or any other entity chartered, registered, permitted, or licensed by the commissioner or designee if the commissioner or designee make certain determinations from an examination or other credible evidence. However, the substitute specifies that the other person besides the control person to whom that provision applies is a person participating in the affairs of a money services licensee, whereas the introduced did not make such a specification.

With respect to the examination or other credible evidence of certain actions that authorizes the commissioner or designee to take certain actions against those applicable individuals, the versions differ as follows:

- the introduced authorized the commissioner or designee to take the action on a determination that the person engaged in conduct subjecting an individual to suspension or revocation of a money services license or the revocation of a designation as an authorized delegate for a money transmission licensee, whereas the substitute authorizes the commissioner or designee to take the action on a determination that the person intentionally committed, participated in the commission of, or caused a money services licensee to commit an act subjecting an individual to such actions; and
- the substitute includes a specification absent from the introduced, for purposes of determining that, because of the action by the person, the interests of the customers, creditors, or shareholders of the money services licensee have been or could be prejudiced, that the interests of such persons includes the interests of purchasers and holders of a money transmission licensee's outstanding money transmission obligations.

The substitute includes a provision absent from the introduced establishing that a proposed removal or prohibition order on a person alleged to have committed or participated in the action by the commissioner or designee is subject to statutory provisions relating to notices, hearings, and other procedures for nonemergency orders in the regulation of money services businesses.

The substitute changes the bill's effective date to provide for its possible immediate effect, contingent on receiving the requisite constitutional vote, whereas the introduced provided only for the bill to take effect September 1, 2025, with no possibility for immediate effect.