

Chapter 20

S.B. No. 614

1 AN ACT

2 relating to the continuation and functions of the Finance
3 Commission of Texas, the Texas Department of Banking, and the
4 Department of Savings and Mortgage Lending, to the training
5 requirements applicable to the agencies overseen by the Finance
6 Commission of Texas, and to the regulation of certain financial
7 institutions and businesses.

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

9 SECTION 1. Section 11.108, Finance Code, is amended to read
10 as follows:

11 Sec. 11.108. SUNSET PROVISION. The finance commission is
12 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
13 continued in existence as provided by that chapter, the commission
14 is abolished September 1, 2031 [~~2019~~].

15 SECTION 2. Section 11.110, Finance Code, is amended by
16 adding Subsections (d) and (e) to read as follows:

17 (d) The commissioner of each finance agency shall create a
18 training manual that includes the information required by
19 Subsection (b) applicable to that commissioner's agency. The
20 commissioner of each finance agency shall distribute a copy of the
21 training manual created under this subsection annually to each
22 member of the finance commission. Each member of the finance
23 commission shall sign and submit to the appropriate commissioner a
24 statement acknowledging that the member received and has reviewed

1 the training manual.

2 (e) Notwithstanding Subsection (d), the commissioner of
3 each finance agency may collaborate and jointly create one training
4 manual that includes the information required by Subsection (b)
5 applicable to each finance agency.

6 SECTION 3. Subchapter B, Chapter 11, Finance Code, is
7 amended by adding Section 11.113 to read as follows:

8 Sec. 11.113. ADVISORY COMMITTEES. (a) The finance
9 commission may appoint advisory committees to assist the finance
10 commission in performing its duties.

11 (b) The finance commission shall specify each committee's
12 purpose, powers, and duties and shall require each committee to
13 report to the finance commission in the manner specified by the
14 finance commission concerning the committee's activities and the
15 results of its work.

16 SECTION 4. Section 11.202(b), Finance Code, is amended to
17 read as follows:

18 (b) The Texas Department of Banking may employ a hearings
19 officer to serve the finance agencies as determined by interagency
20 agreement. For the purposes of Section 2003.021, Government Code,
21 a hearings officer employed under this section is considered to be
22 an employee of each agency for which hearing services are provided.
23 The hearings officer's only duty is to preside over matters related
24 to contested cases before a finance agency [~~or the finance~~
25 ~~commission~~].

26 SECTION 5. Section 12.108, Finance Code, is amended to read
27 as follows:

1 Sec. 12.108. CONSUMER INFORMATION AND COMPLAINTS. (a) The
2 department [~~banking commissioner~~] shall maintain a system to
3 promptly and efficiently act on complaints filed with the
4 department. The department shall maintain information about
5 parties to the complaint, the subject matter of the complaint, a
6 summary of the results of the review or investigation of the
7 complaint, and its disposition[+

8 ~~[(1) prepare information of consumer interest~~
9 ~~describing:~~

10 ~~[(A) the regulatory functions of the department,~~
11 ~~and~~

12 ~~[(B) the department's procedures by which~~
13 ~~consumer complaints are filed with and resolved by the department,~~
14 ~~and~~

15 ~~[(2) make the information available to the public and~~
16 ~~appropriate state agencies].~~

17 (b) The department shall make information available
18 describing its procedures for complaint investigation and
19 resolution [~~maintain a file on each written complaint filed with~~
20 ~~the department. The file must include:~~

21 ~~[(1) the name of the person who filed the complaint,~~

22 ~~[(2) the date the complaint is received by the~~
23 ~~department,~~

24 ~~[(3) the subject matter of the complaint,~~

25 ~~[(4) the name of each person contacted in relation to~~
26 ~~the complaint,~~

27 ~~[(5) a summary of the results of the review or~~

1 ~~investigation of the complaint, and~~
2 ~~[(6) an explanation of the reason the file was~~
3 ~~closed].~~

4 (c) The department shall periodically notify the complaint
5 parties of the status of the complaint until final disposition
6 ~~[provide to the person filing the complaint and to each person who~~
7 ~~is a subject of the complaint a written summary of the department's~~
8 ~~policies and procedures relating to complaint investigation and~~
9 ~~resolution].~~

10 SECTION 6. Section 12.109, Finance Code, is amended to read
11 as follows:

12 Sec. 12.109. SUNSET PROVISION. The office of banking
13 commissioner is subject to Chapter 325, Government Code (Texas
14 Sunset Act). Unless continued in existence as provided by that
15 chapter, the office is abolished September 1, 2031 ~~[2019]~~.

16 SECTION 7. Subchapter B, Chapter 12, Finance Code, is
17 amended by adding Sections 12.113 and 12.114 to read as follows:

18 Sec. 12.113. ALTERNATIVE RULEMAKING AND DISPUTE
19 RESOLUTION. (a) The finance commission by rule shall develop a
20 policy to encourage the use of:

21 (1) negotiated rulemaking procedures under Chapter
22 2008, Government Code, for the adoption of rules by the finance
23 commission applicable to the department; and

24 (2) appropriate alternative dispute resolution
25 procedures under Chapter 2009, Government Code, to assist in the
26 resolution of internal and external disputes under the department's
27 jurisdiction.

1 (b) The procedures applicable to the department relating to
2 alternative dispute resolution must conform, to the extent
3 possible, to any model guidelines issued by the State Office of
4 Administrative Hearings for the use of alternative dispute
5 resolution by state agencies.

6 (c) The department shall:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) provide training as needed to implement the
10 procedures for negotiated rulemaking or alternative dispute
11 resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures.

14 Sec. 12.114. ADVISORY COMMITTEES. (a) The banking
15 commissioner may appoint advisory committees to assist the
16 department and banking commissioner in performing their duties.

17 (b) The banking commissioner shall specify each committee's
18 purpose, powers, and duties and shall require each committee to
19 report to the banking commissioner or department in the manner
20 specified by the banking commissioner concerning the committee's
21 activities and the results of its work.

22 SECTION 8. Sections 13.011(a), (b), and (c), Finance Code,
23 are amended to read as follows:

24 (a) The Department of Savings and Mortgage Lending [~~savings~~
25 ~~and mortgage lending commissioner~~] shall maintain a system to
26 promptly and efficiently act on complaints filed with that
27 department. The Department of Savings and Mortgage Lending shall

1 maintain information about parties to the complaint, the subject
2 matter of the complaint, a summary of the results of the review or
3 investigation of the complaint, and its disposition [~~prepare~~
4 ~~information of consumer interest describing:~~

5 [~~(1) the regulatory functions of the Department of~~
6 ~~Savings and Mortgage Lending; and~~

7 [~~(2) the procedures by which consumer complaints are~~
8 ~~filed with and resolved by the Department of Savings and Mortgage~~
9 ~~Lending].~~

10 (b) The Department of Savings and Mortgage Lending shall
11 make information [~~under Subsection (a) must be made]~~ available
12 describing its procedures for complaint investigation and
13 resolution [~~to the public and appropriate state agencies].~~

14 (c) The Department of Savings and Mortgage Lending shall
15 periodically notify the complaint parties of the status of the
16 complaint until final disposition [~~maintain a file on each written~~
17 ~~complaint filed with the Department of Savings and Mortgage~~
18 ~~Lending. The file must include:~~

19 [~~(1) the name of the person who filed the complaint,~~

20 [~~(2) the date the complaint is received by the~~
21 ~~Department of Savings and Mortgage Lending,~~

22 [~~(3) the subject matter of the complaint,~~

23 [~~(4) the name of each person contacted in relation to~~
24 ~~the complaint,~~

25 [~~(5) a summary of the results of the review or~~
26 ~~investigation of the complaint, and~~

27 [~~(6) an explanation of the reason the file was closed,~~

1 ~~if the agency closed the file without taking action other than to~~
2 ~~investigate the complaint].~~

3 SECTION 9. Section 13.012, Finance Code, is amended to read
4 as follows:

5 Sec. 13.012. SUNSET PROVISION. The office of savings and
6 mortgage lending commissioner and the Department of Savings and
7 Mortgage Lending are subject to Chapter 325, Government Code (Texas
8 Sunset Act). Unless continued in existence as provided by that
9 chapter, the office and department are abolished September 1, 2031
10 ~~[2019]~~.

11 SECTION 10. Chapter 13, Finance Code, is amended by adding
12 Sections 13.017 and 13.018 to read as follows:

13 Sec. 13.017. ALTERNATIVE RULEMAKING AND DISPUTE
14 RESOLUTION. (a) The finance commission by rule shall develop a
15 policy to encourage the use of:

16 (1) negotiated rulemaking procedures under Chapter
17 2008, Government Code, for the adoption of rules by the finance
18 commission applicable to the Department of Savings and Mortgage
19 Lending; and

20 (2) appropriate alternative dispute resolution
21 procedures under Chapter 2009, Government Code, to assist in the
22 resolution of internal and external disputes under the Department
23 of Savings and Mortgage Lending's jurisdiction.

24 (b) The procedures applicable to the Department of Savings
25 and Mortgage Lending relating to alternative dispute resolution
26 must conform, to the extent possible, to any model guidelines
27 issued by the State Office of Administrative Hearings for the use of

1 alternative dispute resolution by state agencies.

2 (c) The Department of Savings and Mortgage Lending shall:

3 (1) coordinate the implementation of the policy
4 adopted under Subsection (a);

5 (2) provide training as needed to implement the
6 procedures for negotiated rulemaking or alternative dispute
7 resolution; and

8 (3) collect data concerning the effectiveness of those
9 procedures.

10 Sec. 13.018. ADVISORY COMMITTEES. (a) The savings and
11 mortgage lending commissioner may appoint advisory committees to
12 assist the Department of Savings and Mortgage Lending and savings
13 and mortgage lending commissioner in performing their duties.

14 (b) The savings and mortgage lending commissioner shall
15 specify each committee's purpose, powers, and duties and shall
16 require each committee to report to the savings and mortgage
17 lending commissioner or Department of Savings and Mortgage Lending
18 in the manner specified by the savings and mortgage lending
19 commissioner concerning the committee's activities and the results
20 of its work.

21 SECTION 11. Sections 31.202 and 31.204, Finance Code, are
22 amended to read as follows:

23 Sec. 31.202. APPEAL OF BANKING COMMISSIONER DECISION OR
24 ORDER. Except as expressly provided otherwise by this subtitle, an
25 appellant may appeal a decision or order of the banking
26 commissioner made under this subtitle or Chapter 12 after a hearing
27 [~~directly~~] to a district court in [~~the District Court of~~] Travis

1 County as provided by Section 31.204 [~~or, at the option of the~~
2 ~~appellant, to the finance commission for review~~].

3 Sec. 31.204. [DIRECT] APPEAL TO DISTRICT COURT [~~OR APPEAL~~
4 ~~OF FINANCE COMMISSION ORDER~~]. A person affected by a final order of
5 the banking commissioner [~~who elects to appeal directly to district~~
6 ~~court, or a person affected by a final order of the finance~~
7 ~~commission under this chapter,~~] may appeal the final order by
8 filing a petition for judicial review in a district court in [~~the~~
9 ~~District Court of~~] Travis County as provided by Chapter 2001,
10 Government Code. A petition for judicial review filed in the
11 district court does not stay or vacate the appealed order unless the
12 court, after notice and hearing, expressly stays or vacates the
13 order.

14 SECTION 12. Section 32.009(d), Finance Code, is amended to
15 read as follows:

16 (d) A state bank that is denied the requested right or
17 privilege to engage in an activity by the banking commissioner
18 under this section may appeal as provided by Sections 31.202[
19 ~~31.203,~~] and 31.204 or may resubmit a letter under this subsection
20 with additional information or authority relevant to the banking
21 commissioner's determination. A denial is immediately final for
22 purposes of appeal.

23 SECTION 13. Section 32.010(d), Finance Code, is amended to
24 read as follows:

25 (d) A state bank that is denied the requested power by the
26 banking commissioner under this section may appeal as provided by
27 Sections 31.202[~~31.203,~~] and 31.204 or may resubmit a letter

1 under this section with additional information or authority
2 relevant to the banking commissioner's determination. A denial is
3 immediately final for purposes of appeal.

4 SECTION 14. Section 35.0035(g), Finance Code, is amended to
5 read as follows:

6 (g) After the hearing, the banking commissioner may affirm,
7 modify, or set aside, in whole or in part, the order. An order
8 affirming or modifying the order is immediately final for purposes
9 of enforcement and appeal. The order may be appealed as provided by
10 Sections 31.202[~~31.203~~] and 31.204.

11 SECTION 15. Section 35.004(c), Finance Code, is amended to
12 read as follows:

13 (c) An order issued under this section is immediately final
14 for purposes of enforcement and appeal. The order may be appealed
15 as provided by Sections 31.202[~~31.203~~] and 31.204.

16 SECTION 16. Section 35.005(e), Finance Code, is amended to
17 read as follows:

18 (e) After the hearing, the banking commissioner may affirm,
19 modify, or set aside in whole or part the emergency order. An order
20 affirming or modifying the emergency order is immediately final for
21 purposes of enforcement and appeal. The order may be appealed as
22 provided by Sections 31.202[~~31.203~~] and 31.204.

23 SECTION 17. Section 35.104(c), Finance Code, is amended to
24 read as follows:

25 (c) An order issued under Subsection (b) is immediately
26 final for purposes of appeal. The order may be appealed as provided
27 by Sections 31.202[~~31.203~~] and 31.204.

1 SECTION 18. Section 35.110(d), Finance Code, is amended to
2 read as follows:

3 (d) After the hearing, the banking commissioner may affirm,
4 modify, or set aside in whole or part the prior ruling. An order
5 supporting the action contested by the board is immediately final
6 for purposes of appeal. The order may be appealed as provided by
7 Sections 31.202 [~~, 31.203,~~] and 31.204. [~~If the order is appealed to~~
8 ~~the finance commission, the finance commission may:~~

9 [~~(1) affirm, terminate, or modify the order,~~

10 [~~(2) continue or end supervision or conservatorship,~~

11 ~~and~~

12 [~~(3) order further relief as justice, equity, and~~
13 ~~protection of depositors, creditors, and the public require.]~~

14 SECTION 19. Sections 154.104(a) and (b), Finance Code, are
15 amended to read as follows:

16 (a) The commission by rule shall prescribe the term of a [A]
17 permit [is] issued under this subchapter [~~for a one-year term~~].

18 (b) If the commission prescribes the term of a permit issued
19 under this subchapter for a period other than one year, the [The]
20 commission shall prorate the fee required under this subchapter as
21 necessary to reflect the term of the permit [~~by rule may adopt a~~
22 ~~system under which permits expire on various dates during the~~
23 ~~year~~].

24 SECTION 20. Section 154.415(f), Finance Code, is amended to
25 read as follows:

26 (f) An order issued under Subsection (e) is immediately
27 final for purposes of enforcement and appeal. The order may be

1 appealed as provided by Sections 31.202 [~~31.203~~] and 31.204.

2 SECTION 21. Section 157.012(c), Finance Code, is amended to
3 read as follows:

4 (c) To be eligible to be licensed as a residential mortgage
5 loan originator, the individual, in addition to meeting the
6 requirements of Subsection (a), must:

7 (1) satisfy the commissioner as to [~~the individual's~~
8 ~~good moral character, including~~] the individual's honesty,
9 trustworthiness, and integrity;

10 (2) not be in violation of this chapter, Chapter 180,
11 or any rules adopted under this chapter or Chapter 180;

12 (3) provide the commissioner with satisfactory
13 evidence that the individual meets the qualifications provided by
14 Chapter 180; and

15 (4) be a citizen of the United States or a lawfully
16 admitted alien.

17 SECTION 22. Sections 181.202 and 181.204, Finance Code, are
18 amended to read as follows:

19 Sec. 181.202. APPEAL OF BANKING COMMISSIONER DECISION OR
20 ORDER. Except as expressly provided otherwise by this subtitle, a
21 person affected by a decision or order of the banking commissioner
22 made under this subtitle after a hearing may appeal the decision or
23 order [+

24 [~~(1) to the finance commission; or~~
25 [~~(2) directly~~] to a district court in Travis County as
26 provided by Section 181.204.

27 Sec. 181.204. [~~DIRECT~~] APPEAL TO DISTRICT COURT [~~OR APPEAL~~

1 ~~OF FINANCE COMMISSION ORDER~~. A person affected by a final order of
2 the banking commissioner [~~who elects to appeal directly to district~~
3 ~~court, or a person affected by a final order of the finance~~
4 ~~commission under this subchapter,~~] may appeal the final order by
5 filing a petition for judicial review as provided by Chapter 2001,
6 Government Code. A petition for judicial review filed in the
7 district court does not stay or vacate the appealed order unless the
8 court, after notice and hearing, expressly stays or vacates the
9 order.

10 SECTION 23. Section 182.010(d), Finance Code, is amended to
11 read as follows:

12 (d) A state trust company that is denied the requested right
13 or privilege to engage in an activity by the banking commissioner
14 under this section may appeal as provided by Sections 181.202 and
15 181.204 [~~Sections 181.202-181.204~~] or may resubmit a letter under
16 this section with additional information or authority relevant to
17 the banking commissioner's determination. A denial is immediately
18 final for purposes of appeal.

19 SECTION 24. Section 185.0035(g), Finance Code, is amended
20 to read as follows:

21 (g) After the hearing, the banking commissioner may affirm,
22 modify, or set aside, in whole or in part, the order. An order
23 affirming or modifying the order is immediately final for purposes
24 of enforcement and appeal. The order may be appealed as provided by
25 Sections 181.202[~~, 181.203,~~] and 181.204.

26 SECTION 25. Section 185.004(c), Finance Code, is amended to
27 read as follows:

1 (c) An order issued under this section is immediately final
2 for purposes of enforcement and appeal. The order may be appealed
3 as provided by Sections 181.202 and 181.204 [~~Sections~~
4 ~~181.202-181.204~~].

5 SECTION 26. Section 185.005(e), Finance Code, is amended to
6 read as follows:

7 (e) After the hearing, the banking commissioner may affirm,
8 modify, or set aside in whole or part the emergency order. An order
9 affirming or modifying the order is immediately final for purposes
10 of enforcement and appeal. The order may be appealed as provided by
11 Sections 181.202 and 181.204 [~~Sections 181.202-181.204~~].

12 SECTION 27. Section 185.104(c), Finance Code, is amended to
13 read as follows:

14 (c) An order issued under Subsection (b) is immediately
15 final for purposes of appeal. The order may be appealed as provided
16 by Sections 181.202 and 181.204 [~~Sections 181.202-181.204~~].

17 SECTION 28. Section 185.110(d), Finance Code, is amended to
18 read as follows:

19 (d) After the hearing, the banking commissioner may affirm,
20 modify, or set aside in whole or part the prior ruling. An order
21 supporting the action contested by the board is immediately final
22 for purposes of appeal. The order may be appealed as provided by
23 Sections 181.202 and 181.204 [~~Sections 181.202-181.204~~]. [~~If the~~
24 ~~order is appealed to the finance commission, the finance commission~~
25 ~~may:~~

26 [~~(1) affirm, terminate, or modify the order,~~

27 [~~(2) continue or end supervision or conservatorship,~~

1 and

2 [~~(3) order further relief as justice, equity, and~~
3 ~~protection of clients, creditors, and the public require.~~]

4 SECTION 29. Section 187.305(a), Finance Code, is amended to
5 read as follows:

6 (a) If the banking commissioner determines that an
7 out-of-state trust company has violated this subtitle or other
8 applicable law of this state, the banking commissioner may take all
9 enforcement actions the banking commissioner would be empowered to
10 take if the out-of-state trust company were a state trust company,
11 except that the banking commissioner shall promptly give notice to
12 the home state regulator of each enforcement action to be taken
13 against an out-of-state trust company and, to the extent
14 practicable, shall consult and cooperate with the home state
15 regulator in pursuing and resolving the enforcement action. An
16 out-of-state trust company may appeal a final order or other
17 decision of the banking commissioner under this subtitle as
18 provided by Sections 181.202 and 181.204 [~~Sections~~
19 ~~181.202-181.204~~].

20 SECTION 30. Section 201.009, Finance Code, is amended to
21 read as follows:

22 Sec. 201.009. ENFORCEMENT; APPEALS. (a) If the
23 commissioner determines that a bank holding company or a foreign
24 bank has violated this subtitle or other applicable law of this
25 state, the commissioner may take any enforcement action the
26 commissioner would be empowered to take if the bank holding company
27 or foreign bank were a Texas state bank, except that the

1 commissioner shall promptly give notice to the home state regulator
2 of each enforcement action taken against an out-of-state bank
3 holding company or foreign bank and, to the extent practicable,
4 shall consult and cooperate with the home state regulator in
5 pursuing and resolving the enforcement action. A bank holding
6 company or foreign bank may appeal a final order or other decision
7 of the commissioner under this subtitle as provided by Sections
8 31.202[~~31.203~~] and 31.204.

9 (b) If the commissioner determines that an interstate
10 branch maintained by an out-of-state state bank in this state is
11 being operated in violation of a law of this state that is
12 applicable to the branch under Section 24(j), Federal Deposit
13 Insurance Act (12 U.S.C. Section 1831a(j)), including a law that
14 governs community reinvestment, fair lending, or consumer
15 protection, the commissioner, with written notice to the home state
16 regulator and subject to the terms of any applicable cooperative
17 agreement with the home state regulator, may take any enforcement
18 action the commissioner would be empowered to take if the branch
19 were a Texas state bank or state savings bank, as the case may be.
20 An out-of-state state bank may appeal a final order or other
21 decision of the commissioner under this subtitle as provided by
22 Sections 31.202[~~31.203~~] and 31.204, or as provided under
23 Subtitle C with respect to a state savings bank.

24 SECTION 31. Section 204.119, Finance Code, is amended to
25 read as follows:

26 Sec. 204.119. STATUS OF REVOKED LICENSE. Unless stayed by
27 the [~~finance commission or~~] district court that has jurisdiction

1 over an appeal, a final order of the commissioner revoking a license
2 is effective immediately and the foreign bank shall immediately
3 cease all activity in this state requiring a license. Subject to
4 Section 204.120, all functions requiring a license must be
5 immediately transferred to a branch, affiliate, or agency of the
6 foreign bank that is located outside of this state and that has the
7 power to perform those functions under governing law. Continued
8 activity in this state of an unlicensed foreign bank is subject to
9 Subchapter C, Chapter 35.

10 SECTION 32. Section 396.001(7), Finance Code, is amended to
11 read as follows:

12 (7) "Private child support enforcement agency" means
13 an individual or nongovernmental entity who engages in the
14 enforcement of child support ordered by a court or other tribunal
15 for a fee or other consideration. The term includes a foreign
16 agency. The term does not include:

17 (A) an attorney enforcing a child support
18 obligation on behalf of, and in the name of, a client unless the
19 attorney has an employee who is not an attorney and who on behalf of
20 the attorney:

21 (i) regularly solicits for child support
22 enforcement; or

23 (ii) regularly contacts child support
24 obligees or obligors for the purpose of child support enforcement;

25 (B) a state agency designated to serve as the
26 state's Title IV-D agency in accordance with Part D, Title IV,
27 Social Security Act (42 U.S.C. Section 651 et seq.), as amended; or

1 (C) a contractor awarded a contract to engage in
2 child support enforcement on behalf of a governmental agency,
3 including a contractor awarded a contract[+
4 [~~(i)~~ under Chapter 236, Family Code, or
5 [~~(ii)~~] by a political subdivision of this
6 or another state that is authorized by law to enforce a child
7 support obligation.

8 SECTION 33. Sections 396.202(a) and (b), Finance Code, are
9 amended to read as follows:

10 (a) A private child support enforcement [~~registered~~] agency
11 shall maintain records of all child support collections made on
12 behalf of, and disbursed to, a client who is an obligee, including:

13 (1) the name of any obligor who made child support
14 payments collected by the agency;

15 (2) the amount of support collected by the agency for
16 each client, including:

17 (A) the date on which the amount was collected;
18 and

19 (B) the date on which each amount due the client
20 by the obligor was paid to the client;

21 (3) a copy of the order establishing the child support
22 obligation under which a collection was made by the agency; and

23 (4) any other pertinent information relating to the
24 child support obligation, including any case, cause, or docket
25 number of the court having jurisdiction over the matter.

26 (b) The records required under this section must be updated
27 at least monthly and must be maintained by the private child support

1 enforcement [~~registered~~] agency for a period of four years from the
2 date of the last support payment collected by the agency on behalf
3 of an obligee.

4 SECTION 34. Section 396.203(a), Finance Code, is amended to
5 read as follows:

6 (a) A private child support enforcement [~~registered~~] agency
7 [~~and foreign agency authorized to engage in business under this~~
8 ~~chapter~~] shall execute a written contract for the enforcement of
9 child support for each client of the agency that is residing in this
10 state.

11 SECTION 35. Sections 396.251(a) and (b), Finance Code, are
12 amended to read as follows:

13 (a) In enforcing a child support obligation, a private child
14 support enforcement [~~registered~~] agency may not use threats,
15 coercion, or attempts to coerce that employ any of the following
16 practices:

17 (1) using or threatening to use violence or other
18 criminal means to cause harm to an obligor or property of the
19 obligor;

20 (2) accusing falsely or threatening to accuse falsely
21 an obligor of a violation of state or federal child support laws;

22 (3) taking or threatening to take an enforcement
23 action against an obligor that is not authorized by law; or

24 (4) intentionally representing to a person that the
25 agency is a governmental agency authorized to enforce a child
26 support obligation.

27 (b) Subsection (a) does not prevent a private child support

1 enforcement [~~registered~~] agency from:

2 (1) informing an obligor that the obligor may be
3 subject to penalties prescribed by law for failure to pay a child
4 support obligation; or

5 (2) taking, or threatening to take, an action
6 authorized by law for the enforcement of a child support obligation
7 by the agency.

8 SECTION 36. Section 396.252, Finance Code, is amended to
9 read as follows:

10 Sec. 396.252. FRAUDULENT, DECEPTIVE, OR MISLEADING
11 REPRESENTATIONS. In enforcing a child support obligation, a
12 private child support enforcement [~~registered~~] agency or employee
13 of the agency may not:

14 (1) identify the [~~registered~~] agency by any name other
15 than one by which the agency is authorized to do business under the
16 laws of this state [~~registered with the department~~];

17 (2) falsely represent the nature of the child support
18 enforcement activities in which the agency is authorized by law to
19 engage; or

20 (3) falsely represent that an oral or written
21 communication is the communication of an attorney.

22 SECTION 37. Section 396.352(a), Finance Code, is amended to
23 read as follows:

24 (a) A private child support enforcement [~~registered~~] agency
25 that is located in another state or [~~a private child support~~
26 ~~enforcement agency~~] that engages in the business of child support
27 enforcement in this state in violation of this chapter is

1 considered to have submitted to the jurisdiction of the courts of
2 this state with respect to an action brought under this chapter.

3 SECTION 38. Section 711.001(6), Health and Safety Code, is
4 amended to read as follows:

5 (6) "Cemetery broker" means a person who sells the
6 exclusive right of sepulture for another person. The term does not
7 include a person who:

8 (A) is an officer, agent, or employee of the
9 cemetery organization in which the plot is located, acting at the
10 direction or under the control of the cemetery organization [~~and~~
11 ~~who is exempt from registration under Subchapter C-1~~]; or

12 (B) originally purchased the exclusive right of
13 sepulture for personal use.

14 SECTION 39. Section 711.012(a), Health and Safety Code, is
15 amended to read as follows:

16 (a) The Finance Commission of Texas may adopt rules to
17 enforce and administer [~~Subchapter C-1 and~~] Sections 711.003,
18 711.004, 711.007, 711.008, 711.0105, 711.021-711.024,
19 711.032-711.036, 711.038, 711.0381, 711.040-711.042, 711.052,
20 711.061, 711.063, and 711.064 relating to perpetual care
21 cemeteries.

22 SECTION 40. Section 711.038(e), Health and Safety Code, is
23 amended to read as follows:

24 (e) A person [~~who is an officer, agent, or employee of the~~
25 ~~cemetery organization or its affiliate and who is exempt from~~
26 ~~registration under Subchapter C-1~~] is not required to be licensed
27 or registered to sell a plot in a dedicated cemetery.

1 SECTION 41. Section 711.052(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) A person who is an individual, firm, association,
4 corporation, or municipality, or an officer, agent, or employee of
5 an individual, firm, association, corporation, or municipality,
6 commits an offense if the person:

7 (1) engages in a business for cemetery purposes in
8 this state other than through a corporation organized for that
9 purpose, if a corporation is required by law;

10 (2) fails or refuses to keep records of interment as
11 required by Sections 711.003 and 711.004;

12 (3) sells, offers to sell, or advertises for sale a
13 plot or the exclusive right of sepulture in a plot for purposes of
14 speculation or investment;

15 (4) represents through advertising or printed
16 material that a retail department will be established for the
17 resale of the plots of plot purchasers, that specific improvements
18 will be made in the cemetery, or that specific merchandise or
19 services will be furnished to a plot owner, unless adequate funds or
20 reserves are created by the cemetery organization for the
21 represented purpose;

22 (5) makes more than one interment in a plot in a
23 cemetery operated by a cemetery organization other than as provided
24 by Section 711.0395;

25 (6) removes remains from a plot in a cemetery operated
26 by a cemetery organization without complying with Section 711.004;

27 (7) offers or receives monetary inducement to solicit

1 business for a cemetery broker; or

2 (8) fails or refuses to keep records of sales or
3 resales or to collect and remit fees as required by Section
4 711.0381[~~+~~or

5 [~~(9) fails or refuses to register as a cemetery broker~~
6 ~~as required by Subchapter C-1]~~.

7 SECTION 42. Section 711.056(a), Health and Safety Code, is
8 amended to read as follows:

9 (a) If after a hearing conducted as provided by Chapter
10 2001, Government Code, the trier of fact finds that a violation of
11 this chapter or a rule of the Finance Commission of Texas
12 establishes a pattern of wilful disregard for the requirements of
13 this chapter or rules of the finance commission, the trier of fact
14 may recommend to the commissioner that the maximum administrative
15 penalty permitted under Section 711.055 be imposed on the person
16 committing the violation or that the commissioner cancel or not
17 renew[+

18 [~~(1) the person's registration under Subchapter C-1,~~
19 ~~if the person is registered under that subchapter, or~~

20 [~~(2)~~] the person's permit under Chapter 154, Finance
21 Code, if the person holds such a permit.

22 SECTION 43. Section 711.059(a), Health and Safety Code, is
23 amended to read as follows:

24 (a) The commissioner may issue an order to seize accounts in
25 which funds from the sale or resale of the exclusive right of
26 sepulture in a plot, including earnings, may be held and may issue
27 an order to seize the records that relate to the sale or resale of

1 the exclusive right of sepulture in a plot if the commissioner
2 finds, by examination or other credible evidence, that the person:

3 (1) failed to remit a fee in accordance with Section
4 711.0381;

5 (2) misappropriated, converted, or illegally withheld
6 or failed or refused to pay on demand money entrusted to the person
7 that belongs to a cemetery organization under an instrument of
8 conveyance; or

9 (3) refused to submit to examination by the
10 department[+]

11 [~~(4) was the subject of an order to cancel, suspend, or~~
12 ~~refuse a registration under Subchapter C-1, or~~

13 [~~(5) is required to register under Subchapter C-1 and~~
14 ~~is not registered or has transferred the ownership of the business~~
15 ~~that required registration to another person who is not~~
16 ~~registered].~~

17 SECTION 44. Sections 711.082(a) and (b), Health and Safety
18 Code, are amended to read as follows:

19 (a) The department shall administer Subchapter
20 [~~Subchapters] C [~~and C-1]~~ relating to cemetery brokers.~~

21 (b) The commission may adopt reasonable rules concerning:

22 (1) fees to defray the cost of administering
23 Subchapter [~~Subchapters] C [~~and C-1]~~;~~

24 (2) the retention and inspection of records relating
25 to the sale or resale of the exclusive right of sepulture in a plot;

26 (3) changes in the management or control of a cemetery
27 broker's business; and

1 (4) any other matter relating to the enforcement and
2 administration of Subchapter [~~Subchapters~~] C [~~and C-1~~].

3 SECTION 45. Section 712.0036, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 712.0036. TERM OF CERTIFICATE OF AUTHORITY. (a) The
6 Finance Commission of Texas by rule shall prescribe the term of and
7 renewal procedures for a [~~An initial~~] certificate of authority
8 [~~expires March 1 of the year after the year the certificate is~~]
9 issued under this chapter [~~. The certificate must be renewed at that~~
10 ~~time and by March 1 of each following year~~].

11 (b) If the Finance Commission of Texas prescribes the term
12 of a certificate of authority issued under this chapter for a period
13 other than one year, the finance commission shall prorate any
14 applicable fees as necessary to reflect the term of the
15 certificate.

16 SECTION 46. Section 712.0037(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) As a condition of renewal, a certificate holder must
19 meet the qualifications and satisfy the requirements that apply to
20 an applicant for a new certificate of authority. Additionally, not
21 later than the certificate's [~~annual~~] renewal date, a certificate
22 holder shall:

23 (1) pay a [~~an annual~~] renewal fee in an amount
24 established by Finance Commission of Texas rule; and

25 (2) submit a renewal report under oath and in the form
26 and medium required by the commissioner that demonstrates that the
27 certificate holder meets the qualifications and requirements for

1 holding a certificate.

2 SECTION 47. The following laws are repealed:

- 3 (1) Sections 13.011(d) and (e), Finance Code;
- 4 (2) Sections 31.203 and 181.203, Finance Code;
- 5 (3) Section 396.001(8), Finance Code;
- 6 (4) Subchapters B, C, and D, Chapter 396, Finance
7 Code;
- 8 (5) Section 396.201, Finance Code;
- 9 (6) Subchapter G, Chapter 396, Finance Code;
- 10 (7) Section 711.0381(a), Health and Safety Code; and
- 11 (8) Subchapter C-1, Chapter 711, Health and Safety
12 Code.

13 SECTION 48. (a) Except as provided by Subsection (b) of
14 this section, Section 11.110, Finance Code, as amended by this Act,
15 applies to a member of the Finance Commission of Texas appointed
16 before, on, or after the effective date of this Act.

17 (b) A member of the Finance Commission of Texas who, before
18 the effective date of this Act, completed the training program
19 required by Section 11.110, Finance Code, as that law existed
20 before the effective date of this Act, is required to acknowledge
21 that the member received and reviewed the training manual required
22 by Section 11.110, Finance Code, as amended by this Act. A member
23 of the finance commission described by this subsection may not
24 vote, deliberate, or be counted as a member in attendance at a
25 meeting of the finance commission held on or after December 1, 2019,
26 until the member of the finance commission acknowledges that the
27 member received and reviewed the training manual.

1 SECTION 49. Section 154.104, Finance Code, as amended by
2 this Act, and Sections 712.0036 and 712.0037, Health and Safety
3 Code, as amended by this Act, apply only to a permit or certificate
4 of authority issued or renewed on or after September 1, 2019. A
5 permit or certificate of authority issued or renewed before that
6 date is governed by the law in effect immediately before the
7 effective date of this Act, and the former law is continued in
8 effect for that purpose.

9 SECTION 50. (a) On the effective date of this Act, a
10 certificate of registration that was issued under Section 396.106,
11 Finance Code, a certificate that was issued to operate in this state
12 under Section 396.152, Finance Code, or a registration that was
13 issued under Subchapter C-1, Chapter 711, Health and Safety Code,
14 expires.

15 (b) The repeal of a law by this Act does not entitle a person
16 to a refund of an application, registration, or other fee paid by
17 the person before the effective date of this Act.

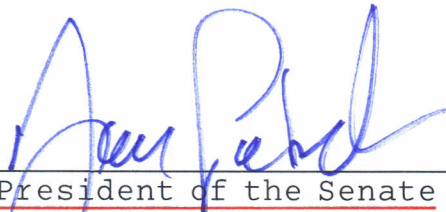
18 SECTION 51. The changes in law made by this Act do not
19 affect the validity of a disciplinary action or other proceeding
20 that was initiated before the effective date of this Act and that is
21 pending before a court or other governmental entity on that date.

22 SECTION 52. (a) A violation of a law that is repealed by
23 this Act is governed by the law in effect on the date the violation
24 was committed, and the former law is continued in effect for that
25 purpose.

26 (b) For purposes of this section, a violation was committed
27 before the effective date of this Act if any element of the

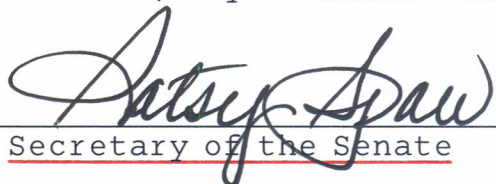
1 violation occurred before that date.

2 SECTION 53. This Act takes effect September 1, 2019.

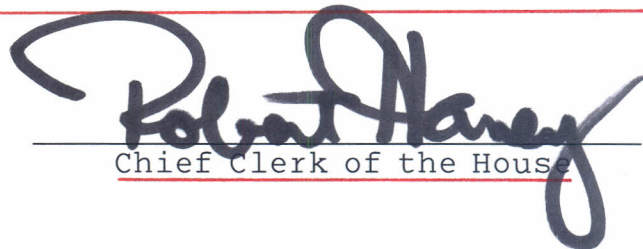

President of the Senate


Speaker of the House

I hereby certify that S.B. No. 614 passed the Senate on March 27, 2019, by the following vote: Yeas 31, Nays 0.

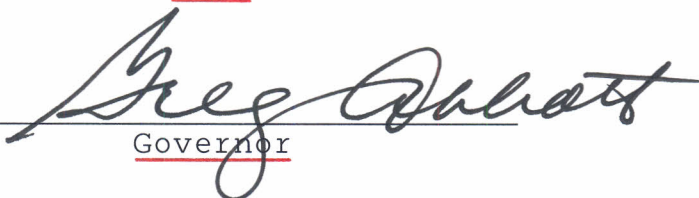

Secretary of the Senate

I hereby certify that S.B. No. 614 passed the House on April 26, 2019, by the following vote: Yeas 138, Nays 0, two present not voting.

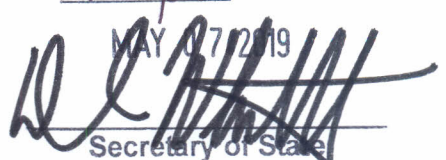

Chief Clerk of the House

Approved:

5-7-2019
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
9:30 pm O'CLOCK

MAY 07 2019

Secretary of State