

FINANCE CODE

TITLE 2. FINANCIAL REGULATORY AGENCIES  
CHAPTER 12. TEXAS DEPARTMENT OF BANKING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 12.001. DEFINITIONS. The definitions provided by Section 31.002 apply to this chapter.  
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. OPERATION OF DEPARTMENT

Sec. 12.101. BANKING COMMISSIONER. (a) The banking commissioner is the chief executive officer of the Texas Department of Banking. The finance commission shall appoint the banking commissioner. The banking commissioner serves at the will of the finance commission and is subject to the finance commission's orders and directions.

(b) The banking commissioner must have not less than seven years' experience in banking or bank supervision.

(c) The finance commission shall set the compensation of the banking commissioner. The compensation shall be paid from money of the department.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 14, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 367 (H.B. 3536), Sec. 1, eff. September 1, 2015.

Sec. 12.102. DEPUTY BANKING COMMISSIONERS. (a) The banking commissioner shall appoint one or more deputy banking commissioners as necessary to the efficient operation of the department. The banking commissioner shall prescribe the qualifications and duties of a deputy banking commissioner.

(b) During the banking commissioner's absence or inability to serve, a deputy banking commissioner has the powers and shall perform the duties of the banking commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 412, Sec. 1.01, eff. Sept. 1, 2001.

Sec. 12.104. OATH OF OFFICE. Before assuming the duties of office, each deputy banking commissioner, examiner, assistant examiner, conservator, supervisor, and special agent, and each other officer or employee specified by the banking commissioner, must take an oath of office to:

(1) discharge faithfully the duties assigned; and

(2) uphold the constitution and laws of this state and of the United States.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 412, Sec. 1.02, eff. Sept. 1, 2001.

Sec. 12.105. FEES, REVENUE, AND EXPENSES; AUDIT. (a) The finance commission shall establish reasonable and necessary fees for the administration of this chapter, Chapter 11, Chapter 13, and Subtitle A, Title 3.

(b) The costs of an audit of the department under Chapter 321, Government Code, shall be paid to the state auditor from the money of the department.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 12.106. LIABILITY. (a) The banking commissioner, a member of the finance commission, a deputy banking commissioner, an examiner, assistant examiner, supervisor, conservator, agent, or other officer or employee of the department, or an agent of the banking commissioner is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

(b) The attorney general shall defend an action brought against a person because of an official act or omission under Subsection (a) regardless of whether the defendant has terminated service with the department before the action commences.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 412, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 12.107. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state that:

(1) is primarily designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest; and

(2) includes business and professional competitors located in this state among its members.

(b) A person may not be a department employee if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in an industry regulated by the department; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in an industry regulated by the department.

(c) A person may not act as the general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(d) A department employee may not:

(1) purchase an asset owned by a person regulated by the department in the possession of the banking commissioner or other receiver for purposes of liquidation, unless the asset is purchased at public auction or with the approval of the receivership court;

(2) except as provided by Subsection (e), become directly or indirectly indebted to a person regulated by the department;

(3) except as provided by Subsection (f), become directly or indirectly financially interested in a person regulated by the department; or

(4) obtain a product or service from a person regulated by the department, or an affiliate of a person regulated by the department, on terms or rates that are more favorable to the employee than those prevailing at the time for comparable

transactions with or involving other similarly situated consumers.

(e) Subject to Subsection (d)(4) and except as otherwise provided by employment policies adopted by the banking commissioner, Subsection (d)(2) does not prohibit indebtedness of:

(1) a clerical or administrative employee to a person regulated by the department, if the employee does not exercise discretionary decision-making authority with respect to the person; or

(2) an employee of the department, other than a clerical or administrative employee, if the indebtedness was permissible when incurred and became prohibited indebtedness under Subsection (d)(2) as a result of employment by the department or a circumstance over which the employee has no control, including a merger, acquisition, purchase or sale of assets, or assumption of liabilities involving a regulated person, if the employee:

(A) repays the indebtedness; or

(B) does not knowingly participate in or consider any matter concerning the person to whom the employee is indebted.

(f) Except as otherwise provided by employment policies adopted by the banking commissioner, Subsection (d)(3) does not prohibit a financial interest of an employee of the department solely because:

(1) the employee owns publicly traded shares of a registered investment company (mutual fund) that owns publicly traded equity securities issued by a person regulated by the department; or

(2) the spouse of or other person related to the employee is employed by a person regulated by the department and receives equity securities of the person through participation in an employee benefit plan, including an employee stock option, bonus, or ownership plan, if:

(A) the sole purpose of the plan is to compensate employees with an ownership interest in the person for services rendered; and

(B) the employee does not knowingly participate in or consider any matter concerning the person until the spouse or other related person no longer owns equity securities issued by the

person.

(g) The banking commissioner may adopt employment policies relating to this section, including policies to:

(1) require employees to notify the department of possible conflicts of interest;

(2) specify the manner or extent of required recusal;

(3) define the circumstances under which adverse employment action may be taken; and

(4) impose more restrictive requirements on senior officers of the department for whom recusal is not viable or consistent with the prudent exercise of the department's responsibilities.

(h) The finance commission may adopt rules to administer this section, including rules to:

(1) codify employment policies of the banking commissioner adopted under Subsection (g);

(2) define or further define terms used by this section; and

(3) establish limits, requirements, or exemptions other than those specified by this section, except that an exempted employee must be recused from participation in or consideration of all regulatory matters specifically concerning the person to whom the exempted indebtedness is owed or the financial interest relates.

(i) Before the 11th day after the date on which an employee begins employment with the department, the employee shall read the conflict-of-interest statutes, rules, and policies applicable to employees of the department and sign a notarized affidavit stating that the employee has read those statutes, rules, and policies.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 699, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 412, Sec. 1.04, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 8.001, eff. Sept. 1, 2003.

Sec. 12.108. CONSUMER INFORMATION AND COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall

maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 699, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 5, eff. September 1, 2019.

Sec. 12.1085. FINANCIAL LITERACY PROGRAM. (a) The department shall seek to improve the financial literacy and education of persons in this state and to encourage access to mainstream financial products and services by persons who have not previously participated in the conventional finance system, by:

(1) coordinating, encouraging, and aiding banks in the development and promotion of financial literacy and education programs and community outreach;

(2) serving as a clearinghouse of information about financial literacy and education programs;

(3) creating and maintaining a resource bank of materials pertaining to financial literacy; and

(4) promoting replication of best practices and exemplary programs that foster financial literacy and education.

(b) The department may solicit and accept a gift, grant, or donation from any source, including a foundation, private entity, governmental entity, or institution of higher education, to assist in the implementation of this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 110 (H.B. 2007), Sec. 1, eff. September 1, 2007.

Sec. 12.109. SUNSET PROVISION. The office of banking commissioner is subject to Chapter 325, Government Code (Texas

Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2031.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 699, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.03, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 3.03, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 6, eff. September 1, 2019.

Sec. 12.111. STANDARDS OF CONDUCT. The banking commissioner or the banking commissioner's designee shall provide to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 699, Sec. 4, eff. Sept. 1, 2001.

Sec. 12.112. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The banking commissioner or the banking commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

- (c) The policy statement must:
  - (1) be updated annually;
  - (2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and
  - (3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 699, Sec. 4, eff. Sept. 1, 2001.

Sec. 12.113. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION.

(a) The finance commission by rule shall develop a policy to encourage the use of:

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

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

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

(c) The department shall:

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

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

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

Added by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 7, eff. September 1, 2019.

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

(b) The banking commissioner shall specify each committee's



purpose, powers, and duties and shall require each committee to report to the banking commissioner or department in the manner specified by the banking commissioner concerning the committee's activities and the results of its work.

Added by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. [614](#)), Sec. 7, eff. September 1, 2019.