

GOVERNMENT CODE
TITLE 12. SECURITIES ACT
CHAPTER 4007. ENFORCEMENT

SUBCHAPTER A. AUTHORITY TO ENFORCE TITLE

Sec. 4007.001. ENFORCEMENT BY COMMISSIONER, ATTORNEY GENERAL, AND DISTRICT OR COUNTY ATTORNEY. (a) The administration of the provisions of this title is vested in the commissioner.

(b) The commissioner and the attorney general shall:

(1) ensure that the provisions of this title are obeyed; and

(2) conduct investigations and take measures to prevent or detect a violation of this title.

(c) The commissioner shall at once submit any evidence of a criminal violation of this title to the district or county attorney of the appropriate county after the evidence comes to the commissioner's knowledge.

(d) If the district or county attorney neglects or refuses to prosecute the alleged criminal violation, the commissioner shall submit the evidence of the alleged violation to the attorney general. The attorney general may proceed with the criminal prosecution of the alleged violation and has all the rights, privileges, and powers conferred by law on a district or county attorney, including the authority to appear before a grand jury and to interrogate witnesses before a grand jury.

(e) Subject to Subsection (h), the board may provide assistance to a county or district attorney who requests assistance in a criminal prosecution involving an alleged violation of this title that is referred by the board to the attorney under Subsection (c).

(f) Before referring a case to a county or district attorney for prosecution as required by Subsection (c), the commissioner shall make a determination of:

(1) the potential resources of the board, including the number and types of board employees, that would be needed to assist in the prosecution of the case; and

(2) the availability of board employees and other resources necessary to carry out any request for assistance.

(g) The board by rule shall establish a process to enable the commissioner to determine whether to provide any requested assistance to the appropriate prosecuting attorney following referral of a case under Subsection (c) and, if so, the appropriate amount of such assistance. The rules must require the commissioner to consider:

(1) whether resources are available after taking into account any ongoing board investigations, investigations under Section 4007.053, and criminal prosecutions for which assistance is being provided;

(2) the seriousness of the alleged violation or violations in the case, including the severity of the harm and number of victims involved; and

(3) the state's interest in the prosecution of a particular case and the availability of other methods of redress for the alleged violations, including the pursuit of a civil action.

(h) In response to a request for assistance under Subsection (e), the board may provide only those board employees or resources, if any, determined to be available for that case in accordance with Subsection (f). If a change in circumstances occurs after the time of the determination under Subsection (f), the commissioner may reconsider the commissioner's determination under that subsection and may increase or reduce the number of board employees or other resources to be made available for a case using the process established under Subsection (g).

(i) The attorney general, at least biennially, shall review a sample of criminal cases for which the board provided requested assistance to county or district attorneys under this section. The review must include an evaluation of the pre-referral determination of available resources to support each case being reviewed as required by Subsection (f) and any subsequent determination of those resources made by the commissioner as authorized under Subsection (h). The attorney general may report any concerns the attorney general has in connection with the board's provision of

assistance to the standing committee of each house of the legislature with primary jurisdiction over board matters.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 9.108, eff. January 1, 2022.

Sec. 4007.002. MEANS OF ENFORCEMENT NOT EXCLUSIVE. The commissioner may use any or all penalties, sanctions, remedies, or relief that the commissioner considers necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. INSPECTIONS AND INVESTIGATIONS

Sec. 4007.051. COMPLAINTS FILED WITH COMMISSIONER OR BOARD.

(a) The commissioner or the commissioner's designee shall maintain a system to promptly and efficiently act on complaints filed with the commissioner or board concerning a person registered under this title. The commissioner or the commissioner's designee 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 commissioner or the commissioner's designee shall make information available describing the board's procedures for complaint investigation and resolution.

(c) The commissioner or the commissioner's designee shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize a law enforcement investigation.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 9.103, eff. January 1, 2022.

Sec. 4007.052. INSPECTIONS. (a) The commissioner without notice may inspect a registered dealer or registered investment

adviser as necessary to ensure compliance with this title and board rules.

(b) The commissioner, during regular business hours, may enter the business premises of a registered dealer or registered investment adviser and examine and copy books and records pertinent to the inspection.

(c) During the inspection, the registered dealer or registered investment adviser shall:

(1) provide to the commissioner or the commissioner's authorized representative immediate and complete access to the registered dealer's or registered investment adviser's office, place of business, files, safe, and any other location at which books and records pertinent to the inspection are located; and

(2) allow the commissioner or the commissioner's authorized representative to make photostatic or electronic copies of books or records subject to inspection.

(d) A registered dealer or registered investment adviser may not charge a fee for copying information under this section.

(e) Information obtained under this section and any intra-agency or interagency notes, memoranda, reports, or other communications consisting of advice, analyses, opinions, or recommendations that are made in connection with the inspection are confidential. The commissioner may not disclose to the public or release documents or other information made confidential by this subsection except to the same extent provided for the release or disclosure of confidential documents or other information made or obtained in connection with an investigation under [Section 4007.053](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.053. INVESTIGATIVE AUTHORITY. (a) The commissioner shall conduct investigations as the commissioner considers necessary to prevent or detect a violation of this title or a board rule or order.

(b) For the purpose of conducting an investigation under this section, the commissioner may:

- (1) administer oaths;
- (2) sign subpoenas;
- (3) issue subpoenas or summons to compel the attendance and testimony of witnesses and the production of all records, electronic or otherwise, relating to any matter that the commissioner has the authority under this title to consider or investigate;
- (4) examine witnesses; and
- (5) receive evidence.

(c) During an investigation, the commissioner may cause the deposition of witnesses residing inside or outside this state to be taken in the manner prescribed by the laws of this state for taking a deposition in a civil action.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.054. SERVICE OF SUBPOENA, SUMMONS, OR OTHER PROCESS. (a) The commissioner may serve a subpoena, summons, or other process issued by the commissioner or have the subpoena, summons, or other process served by an authorized agent of the commissioner, a sheriff, or a constable.

(b) The sheriff's or constable's fee for serving the subpoena is the same as the fee paid the sheriff or constable for similar services.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.055. ENFORCEMENT OF SUBPOENA; CONTEMPT. (a) If a person disobeys a subpoena or if a witness appearing before the commissioner refuses to give evidence, the commissioner may petition the district court of a jurisdiction in which the person or witness may be found, and the court on this petition may issue an order requiring the person or witness to, as applicable, obey the subpoena, testify, or produce a book, an account, a record, a paper, and correspondence relating to the matter in question.

(b) The district court may punish as contempt the failure to obey an order under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.056. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. (a) All information received in connection with an investigation under Section [4007.053](#) and all internal notes, memoranda, reports, or communications made in connection with an investigation under that section are confidential.

(b) The commissioner may not disclose a document or other information made confidential by Subsection (a) unless the disclosure is made:

(1) to the public under court order for good cause shown; or

(2) at the commissioner's discretion, as part of an administrative proceeding or a civil or criminal action to enforce this title.

(c) The commissioner, at the commissioner's discretion, may disclose confidential information in the commissioner's possession to:

(1) a governmental or regulatory authority or any association of governmental or regulatory authorities approved by board rule; or

(2) any receiver appointed under Section [4007.151](#).

(d) Disclosure of information under Subsection (c) does not violate any other provision of this title or Chapter [552](#).

(e) This section may not be interpreted to prohibit or limit the publication of rulings or decisions of the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.057. COMPENSATION OF WITNESSES. (a) A witness required to attend a hearing before the commissioner shall receive for each day's attendance a fee in an amount set by board rule.

(b) A disbursement made in payment of a fee under this section shall be:

(1) made in accordance with board rule; and

(2) included in, and paid in the same manner that is

provided for, the payment of other expenses incurred in the administration and enforcement of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.058. IMPOSITION OF COSTS ON PARTIES. The commissioner may impose on a party of record fees, expenses, or costs incurred in connection with a hearing or may divide the fee, expense, or cost among any or all parties of record as determined by the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.059. ASSISTANCE TO SECURITIES REGULATORS IN OTHER JURISDICTIONS. (a) On request from a securities regulator of another state or of a foreign jurisdiction, the commissioner may provide assistance to the regulator in conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to a securities matter that the regulator is authorized to administer or enforce.

(b) The commissioner may provide assistance under this section through the use of the authority to investigate and any other power conferred by this section or Section [4007.054](#), [4007.055](#), [4007.056](#), or [4007.057](#), as the commissioner determines to be necessary and appropriate.

(c) In determining whether to provide assistance under this section, the commissioner may consider whether:

(1) the securities regulator is permitted and has agreed to provide assistance within the regulator's jurisdiction to the commissioner reciprocally and at the commissioner's request concerning securities matters;

(2) compliance with the request for assistance would violate or otherwise prejudice the public policy of this state;

(3) the conduct described in the request would also constitute a violation of this title or another law of this state had the conduct occurred in this state; and

(4) board employees and board or commissioner resources necessary to carry out the request for assistance are available.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. ADMINISTRATIVE ACTIONS

Sec. 4007.101. CEASE AND DESIST ORDER: OFFER OR SALE OF SECURITIES. (a) The commissioner may hold a hearing as provided by this section if at any time it appears to the commissioner that the sale, proposed sale, or method of sale of securities, regardless of whether exempt:

- (1) is a fraudulent practice;
- (2) does not comply with this title;
- (3) would tend to work a fraud on any purchaser of the securities; or
- (4) would not be fair, just, or equitable to any purchaser of the securities.

(b) The commissioner may hold a hearing under this section on a date set by the commissioner that is not later than the 30th day after the date the issuer or registrant of the securities, the person on whose behalf the securities are being or will be offered, or any person that is acting as a dealer or agent in violation of this title, as applicable:

- (1) receives actual notice; or
- (2) is provided notice by registered or certified mail to the person's last known address.

(c) If the commissioner determines at the hearing that the sale, proposed sale, or method of sale of the securities is a fraudulent practice, does not comply with this title, would tend to work a fraud on any purchaser of the securities, or would not be fair, just, or equitable to any purchaser of the securities, the commissioner may issue a written cease and desist order:

- (1) prohibiting or suspending the sale of the securities;
- (2) denying or revoking the registration of the

securities;

(3) prohibiting an unregistered person from acting as a dealer or agent; or

(4) prohibiting the fraudulent conduct.

(d) After the issuance of a cease and desist order under Subsection (c), a dealer or agent may not knowingly sell or offer for sale any security named in the order.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.102. CEASE AND DESIST ORDER: INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE. (a) Notwithstanding any provision of this title to the contrary, the commissioner may hold a hearing as provided by this section if at any time it appears to the commissioner that:

(1) an investment adviser or investment adviser representative is engaging or is likely to engage in fraud or a fraudulent practice with respect to rendering services as an investment adviser or investment adviser representative; or

(2) a person is acting as an investment adviser or investment adviser representative in violation of this title.

(b) A hearing under this section must be held not later than the 30th day after the date the person described by Subsection (a):

(1) receives actual notice; or

(2) is provided notice by registered or certified mail, return receipt requested, to the person's last known address.

(c) After the hearing, the commissioner shall issue or decline to issue a cease and desist order. An order issued under this subsection must:

(1) require the investment adviser or investment adviser representative to immediately cease and desist from the fraudulent conduct; or

(2) prohibit an unregistered or other unauthorized person who is not exempt from the registration or notice filing requirements of this title from acting as an investment adviser or investment adviser representative in violation of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01,

eff. January 1, 2022.

Sec. 4007.103. CEASE PUBLICATION ORDER.

(a) Notwithstanding any provision of this title to the contrary, the commissioner may issue a cease publication order if at any time it appears to the commissioner that an offer contains any statement that is materially false or misleading or is otherwise likely to deceive the public.

(b) A person may not make an offer that is prohibited by an order issued under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.104. EMERGENCY CEASE AND DESIST ORDER. (a) On the commissioner's determination that the conduct, act, or practice threatens immediate and irreparable public harm, the commissioner may issue an emergency cease and desist order to a person who the commissioner reasonably believes:

(1) is engaging in or is about to engage in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(3) is engaging or is about to engage in an act or practice that violates this title or a board rule.

(b) The emergency order must:

(1) be sent on issuance to each person affected by the order by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the specific charges and require the person to immediately cease and desist from the unauthorized activity; and

(3) contain a notice that a request for a hearing may be filed under this section.

(c) Unless a person against whom the emergency order is

directed requests a hearing in writing before the 31st day after the date the order is served on the person, the emergency order is final and nonappealable as to that person. A request for a hearing must:

(1) be in writing and directed to the commissioner;
and

(2) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the commissioner shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the commissioner receives the request for a hearing unless the parties agree to a later hearing date. At the hearing, the commissioner has the burden of proof and must present evidence in support of the emergency order.

(e) After the hearing, the commissioner shall affirm, modify, or set aside, wholly or partly, the emergency order. An order affirming or modifying the emergency order is immediately final for purposes of enforcement and appeal.

(f) An emergency order continues in effect unless the order is stayed by the commissioner. The commissioner may impose any condition before granting a stay of the order.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.105. DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION. (a) The commissioner may deny an application for registration under this title, suspend or revoke a registration issued under this title, place on probation a dealer, agent, investment adviser, or investment adviser representative whose registration has been suspended under this title, or reprimand a person registered under this title if the person:

(1) has been convicted of a felony;
(2) has been convicted of a misdemeanor that directly relates to the person's securities-related duties and responsibilities;

(3) has engaged in:

(A) an inequitable practice in the sale of securities or in rendering services as an investment adviser; or

(B) a fraudulent business practice;

(4) is an insolvent dealer or investment adviser;

(5) is a dealer and is selling or sold securities in this state through an agent other than a registered agent;

(6) is an investment adviser and is engaging or engaged in rendering services as an investment adviser in this state through a representative who is not registered to perform services for that investment adviser;

(7) is an agent and is selling or sold securities in this state for a dealer, issuer, or controlling person with knowledge that the dealer, issuer, or controlling person has not complied with this title;

(8) is an investment adviser representative and is rendering or rendered services as an investment adviser for an investment adviser in this state whom the representative is not or was not registered to represent;

(9) has:

(A) made a material misrepresentation to the commissioner or board in connection with information considered necessary by the commissioner or board to determine:

(i) a dealer's or investment adviser's financial responsibility; or

(ii) a dealer's, agent's, investment adviser's, or investment adviser representative's business reputation or qualifications; or

(B) refused to provide information described by Paragraph (A) that the commissioner or board has requested;

(10) is registered as a dealer, agent, investment adviser, or investment adviser representative and has not complied with an applicable requirement under Section [4004.151\(a\)](#);

(11) is the subject of any of the following orders issued within the preceding five years that remain effective:

(A) an order by the securities agency or administrator of any state, the financial regulatory authority of a foreign country, or the Securities and Exchange Commission, entered

after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms;

(B) an order suspending or expelling from membership in or association with a member of a self-regulatory organization;

(C) a United States Postal Service fraud order;

(D) an order by the securities agency or administrator of any state, the financial regulatory authority of a foreign country, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, finding, after notice and opportunity for hearing, that the person engaged in acts involving fraud, deceit, false statements or omissions, or wrongful taking of property; or

(E) an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.);

(12) is subject to any order, judgment, or decree entered by a court that permanently restrains or enjoins the person from engaging in or continuing any conduct, action, or practice in connection with any aspect of the purchase or sale of securities or the rendering of investment advice; or

(13) has violated:

(A) any provision of this title;

(B) a board rule;

(C) any order issued by the commissioner; or

(D) any undertaking or agreement with the commissioner.

(b) If the commissioner proposes the suspension or revocation of a person's registration, the person is entitled to a hearing before the commissioner or a hearings officer as required by law.

(c) All registration certificates that have been revoked shall be immediately surrendered to the commissioner on request.

(d) This section does not affect the confidentiality of investigative records maintained by the commissioner or board.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.106. ASSESSMENT OF ADMINISTRATIVE FINE. (a) In addition to any other remedies, the commissioner, after giving notice and opportunity for a hearing, may issue an order that assesses an administrative fine against a person or company found to have:

(1) engaged in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public;

(3) engaged in an act or practice that violates this title or a board rule or order; or

(4) with intent to deceive or defraud or with reckless disregard for the truth or the law, materially aided any person in engaging in an act or practice described by Subdivision (1), (2), or (3).

(b) An administrative fine assessed under this section when added to the amount of any civil penalty previously awarded under Section [4007.154](#) must be in an amount that does not exceed:

(1) the greater of:

(A) \$20,000 per violation; or

(B) the gross amount of any economic benefit gained by the person or company as a result of the act or practice for which the fine was assessed; and

(2) if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than \$250,000.

(c) For purposes of determining the amount of an administrative fine assessed under this section, the commissioner shall consider factors set out in guidelines established by the board.

(d) For purposes of private civil litigation, the payment of

a fine assessed in an agreed order under this title does not constitute an admission of any misconduct described in the order.

(e) A proceeding for the assessment of an administrative fine must be commenced within five years after the violation occurs.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.107. HEARINGS ON CERTAIN MATTERS. (a) A person or company may request a hearing to dispute the commissioner's:

(1) failure or refusal to:

(A) register and issue a certificate of registration for a dealer or investment adviser under Section [4004.054](#); or

(B) register and issue evidence of registration for an agent or investment adviser representative under Section [4004.104](#);

(2) issuance of an order under Section [4007.101](#), [4007.102](#), [4007.103](#), or [4007.104](#); or

(3) taking of an action in any other particular matter for which no other procedure is specified by this title.

(b) A hearing under Subsection (a) must be held before the commissioner or a hearings officer as required by law.

(c) On complaint by a person aggrieved by the denial of a permit qualifying securities for sale under Subchapter [A](#), Chapter [4003](#), or by the failure or refusal to register securities under Subchapter [B](#) or [C](#), Chapter [4003](#), the board or a hearings officer, as required by law, shall conduct a hearing.

(d) A hearing under this section is subject to Chapter [2001](#).
Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.108. REFUND. (a) Subject to Subsection (b), the commissioner may order a dealer, agent, investment adviser, or investment adviser representative regulated under this title to pay a refund to a client or a purchaser of securities or services from the person or company as provided in an agreed order or an

enforcement order instead of or in addition to imposing an administrative penalty or other sanctions.

(b) The amount of a refund ordered as provided in an agreed order or an enforcement order may not exceed the amount the client or purchaser paid to the dealer, agent, investment adviser, or investment adviser representative for a service or transaction regulated by the board. The commissioner may not require payment of other damages or estimate harm in a refund order.

Added by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 9.109, eff. January 1, 2022.

SUBCHAPTER D. CIVIL PROCEEDINGS

Sec. 4007.151. RECEIVERSHIP. (a) This section applies only to a person or company acting as a dealer, agent, investment adviser, investment adviser representative, or issuer or as an affiliate of a dealer, agent, investment adviser, investment adviser representative, or issuer, regardless of whether the person or company is required to be registered as provided in this title.

(b) The commissioner may request the attorney general to bring an action as provided by this section for the appointment of a receiver for a person or company to which this section applies or the assets of the person or company if it appears to the commissioner, on complaint or otherwise, that:

(1) the person or company has:

(A) engaged in an act, transaction, practice, or course of business declared as a fraudulent practice under Section [4007.152](#) or [4007.153](#); and

(B) acted as a dealer, agent, investment adviser, investment adviser representative, or issuer or as an affiliate of a dealer, agent, investment adviser, investment adviser representative, or issuer in connection with the fraudulent practice; and

(2) the appointment of a receiver for the person or company or the assets of the person or company is necessary to conserve and protect the assets for the benefit of customers, security holders, and other claimants and potential claimants of

the person or company.

(c) On the commissioner's request under Subsection (b), the attorney general may bring an action against a person or company in the name and on behalf of the state if it appears to the attorney general that the facts described by that subsection exist with respect to the person or company. The facts contained in the petition for the appointment of a receiver must be verified by the commissioner on information and belief.

(d) An action under this section may be brought in a district court of any county in which the fraudulent practice that is the subject of the petition was wholly or partly committed or in a county in which any defendant for whom the appointment of a receiver is sought has the defendant's principal place of business. A district court described by this subsection has jurisdiction and venue of the action. This subsection is superior to any other provision of law establishing jurisdiction or venue with regard to an action for receivership.

(e) The attorney general may apply for and, on proper showing, is entitled to have a subpoena issued by the court that requires:

(1) the appearance, without delay, of a defendant or any employee, investment adviser representative, or agent of the defendant to testify and give evidence concerning a matter relevant to the appointment of a receiver; and

(2) the production of documents, books, and records that may be necessary for a hearing on the action.

(f) The court may appoint a receiver for the person or company or the person's or company's assets on the attorney general's proper showing of the existence of the facts described by Subsection (b) with respect to the person or company.

(g) If the court appoints a receiver without providing the person or company with notice and an opportunity for hearing, the person or company may file with the court a written application for an order dissolving the receivership. If the application is filed not later than the 30th day after the date the person or company is served with the order appointing the receiver, the person or company is entitled to a hearing on the application not later than

the 10th day after the date written notice is provided to the attorney general.

(h) A person may not be appointed as a receiver under this section unless the court finds that the person is qualified to discharge the duties of receiver after:

(1) hearing the views of:

(A) the attorney general;

(B) the commissioner; and

(C) the defendant against whom the appointment of a receiver is sought, if the court considers it practicable; and

(2) considering the probable nature and magnitude of the receiver's duties in the particular case.

(i) The commissioner or attorney general may not be required to give a bond for receivership in an action brought under this section. The court shall require a person appointed as a receiver to give a bond that is:

(1) in an amount found by the court to be sufficient after considering the probable nature and magnitude of the receiver's duties in the particular case; and

(2) conditioned on the faithful discharge of the receiver's duties.

(j) The remedy provided by this section is in addition to any other remedy made available to the commissioner or the attorney general by statutory laws or case law of this state, including any provision authorizing receiverships.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.152. INJUNCTIVE RELIEF. (a) The commissioner may request the attorney general to bring an action as provided by this section against a person or company if it appears to the commissioner, on complaint or otherwise, that the person or company:

(1) has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in connection with the sale of a security;

(2) has engaged, is engaging, or is about to engage in

fraud or a fraudulent practice in rendering services as an investment adviser or investment adviser representative;

(3) has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(4) has engaged, is engaging, or is about to engage in an act or practice that violates this title or a board rule or order.

(b) On the commissioner's request under Subsection (a), the attorney general, in addition to other remedies, may bring an action in the name and on behalf of the state:

(1) against:

(A) a person or company described by Subsection (a);

(B) any person who, with intent to deceive or defraud or with reckless disregard for the truth or the law, has materially aided, is materially aiding, or is about to materially aid the person or company; and

(C) any other person concerned with or in any manner participating in or about to participate in the acts or practices described by Subsection (a); and

(2) to enjoin the person or company and any other person described by Subdivision (1) from continuing the acts or practices that are the subject of the action for injunctive relief or from doing any act to further the acts or practices.

(c) The facts contained in an application for injunctive relief must be verified by the commissioner on information and belief.

(d) The attorney general may apply for and, on proper showing, is entitled to have a subpoena issued by the court that requires:

(1) the appearance, without delay, of a defendant and any employee or agent of the defendant to testify and give evidence concerning the acts, conduct, or other matters complained about in the application for injunctive relief; and

(2) the production of documents, books, and records that may be necessary for the hearing on the action.

(e) A district court in any county in which it is shown that the acts that are the subject of the application for injunctive relief have been or are about to be committed or a district court in Travis County has jurisdiction and venue of an action brought under this section. This subsection is superior to any provision establishing jurisdiction or venue with regard to an action for an injunction.

(f) The commissioner or attorney general shall not be required to give a bond for injunction in an action brought under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.153. EQUITABLE RELIEF AND RESTITUTION. (a) On the commissioner's request, the attorney general may, in addition to other remedies, seek:

(1) equitable relief, including restitution, for a victim of a fraudulent practice; and

(2) the disgorgement of any economic benefit gained by a defendant through an act or practice that violates this title or for which this title provides the commissioner and attorney general with a remedy.

(b) The attorney general may seek the remedies described by Subsection (a) either in:

(1) an action under Section [4007.152](#); or

(2) a separate action brought in district court.

(c) The court may:

(1) grant any equitable relief the court considers appropriate; and

(2) order the defendant to deliver to each victim of an act or practice that violates this title, or for which this title provides the commissioner or the attorney general with a remedy, the amount of money or the property the defendant obtained from the victim, including any bonus, fee, commission, option, proceeds, or profit from or loss avoided through the sale of the security or through the rendering of services as an investment adviser or investment adviser representative, or any other tangible benefit.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.154. CIVIL PENALTY. (a) On the commissioner's request, the attorney general may, in addition to other remedies, seek a civil penalty to be paid to the state in an amount that, when added to the amount of any administrative fine previously assessed under Section 4007.106(b), does not exceed:

(1) the greater of:

(A) \$20,000 per violation; or

(B) the gross amount of any economic benefit gained by the person or company as a result of the commission of the act or practice; and

(2) if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than \$250,000.

(b) The attorney general may seek a civil penalty under this section either in:

(1) an action under Section 4007.152; or

(2) a separate action in district court.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.155. RECOVERY OF COSTS. In an action brought under Section 4007.152, 4007.153, or 4007.154, the attorney general may recover reasonable costs and expenses incurred by the attorney general in bringing the action.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER E. CRIMINAL PROVISIONS

Sec. 4007.201. UNAUTHORIZED SALE OF SECURITIES; OFFENSE.

(a) A person commits an offense if the person sells, offers for sale or delivery, solicits subscriptions to or orders for, disposes of, invites orders for, or deals in any other manner in a security issued after September 6, 1955, unless:

(1) the security has been registered under Subchapter B or C, Chapter 4003; or

(2) a permit qualifying securities for sale has been issued under Subchapter A, Chapter 4003, with respect to the security.

(b) A person commits an offense if the person sells, offers for sale or delivery, solicits subscriptions to or orders for, disposes of, invites offers for, or deals in any other manner in a security without being a registered dealer or registered agent as provided in this title.

(c) An offense under this section is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.202. UNAUTHORIZED RENDERING OF SERVICES AS INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE; OFFENSE.

(a) A person commits an offense if the person:

(1) renders services as an investment adviser or investment adviser representative; and

(2) is not registered as an investment adviser or investment adviser representative as required by this title.

(b) An offense under this section is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.203. FRAUDULENT CONDUCT; OFFENSE. (a) A person commits an offense if:

(1) the person directly or indirectly:

(A) engages in any fraud or fraudulent practice;

(B) employs any device, scheme, or artifice to defraud;

(C) knowingly makes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

(D) engages in any act, practice, or course of business that operates or will operate as a fraud or deceit on any person; and

(2) the applicable conduct is committed in connection with:

(A) the sale of, the offering for sale or delivery of, the purchase of, the offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any security, regardless of whether the transaction or security is exempt under Chapter 4005; or

(B) the rendering of services as an investment adviser or an investment adviser representative.

(b) An offense under this section is:

(1) a felony of the third degree, if the amount involved in the offense is less than \$10,000;

(2) a felony of the second degree, if the amount involved in the offense is \$10,000 or more but less than \$100,000; or

(3) a felony of the first degree, if the amount involved is \$100,000 or more.

(c) An indictment for an offense under this section may be brought only before the fifth anniversary of the date the offense was committed.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.204. MATERIALLY FALSE STATEMENT IN DOCUMENT OR PROCEEDING; OFFENSE. (a) A person commits an offense if the person knowingly makes or causes to be made any statement in a document filed with the commissioner or in a proceeding under this title that is, at the time and in light of the circumstances under which the statement is made, false or misleading in any material respect.

(b) An offense is established under this section regardless of whether the document or proceeding relates to a transaction or security that is exempt under Chapter 4005.

(c) An offense under this section is a felony of the third

degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.205. FALSE STATEMENT OR REPRESENTATION CONCERNING REGISTRATION; OFFENSE. (a) A person commits an offense if the person knowingly makes a false statement or representation concerning a registration made or an exemption claimed under this title.

(b) An offense under this section is a state jail felony.
Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.206. VIOLATION OF CEASE AND DESIST ORDER; OFFENSE. (a) A person commits an offense if the person knowingly violates a cease and desist order issued by the commissioner under Section [4007.101](#), [4007.102](#), or [4007.104](#).

(b) An offense under this section is a felony of the third degree.
Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.207. NONCOMPLIANT OFFER OR OFFER PROHIBITED BY CEASE PUBLICATION ORDER; OFFENSE. (a) A person commits an offense if the person:

(1) makes an offer of a security in this state that does not comply with the requirements governing offers specified in Subchapter [E](#), Chapter [4003](#); or

(2) knowingly makes an offer of a security in this state that is prohibited by a cease publication order issued by the commissioner under Section [4007.103](#).

(b) An offense under this section is a state jail felony.
Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.208. AGGREGATION OF AMOUNTS. When amounts are obtained in violation of this title pursuant to one scheme or

continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.
Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.209. LIABILITY OF CORPORATION. (a) In this section:

(1) "Association" and "corporation" have the meanings assigned by Section 1.07, Penal Code.

(2) "High managerial agent" has the meaning assigned by Section 7.21, Penal Code.

(b) If conduct constituting an offense under this subchapter is performed by an agent acting on behalf of a corporation or association and within the scope of the agent's office or employment, the corporation or association is criminally responsible for the offense only if the commission of the offense was authorized, requested, commanded, performed, or recklessly tolerated by:

(1) a majority of the governing board acting on behalf of the corporation or association; or

(2) a high managerial agent acting on behalf of the corporation or association and within the scope of the high managerial agent's office or employment.

(c) It is an affirmative defense to prosecution of a corporation or association under Subsection (b) that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent the commission of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.