

AMENDED IN ASSEMBLY APRIL 23, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 392

Introduced by Assembly Member Maddox

February 20, 2001

An act to add Section 10176.1 to the Business and Professions Code, to add Section 17423.1 to the Financial Code, and to add Section 12414.31 to the Insurance Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

AB 392, as amended, Maddox. Escrow agents.

Existing law subjects the escrow industry to various laws and regulations under the oversight of the Real Estate Commissioner, the Commissioner of Corporations, or the Insurance Commissioner.

This bill would require the commissioners to notify each other when taking enforcement or disciplinary action related to certain escrow services. The bill would require the Department of Real Estate, the Department of Corporations, and the Department of Insurance to each maintain a website that displays a data base of individuals who have been subject to disciplinary action related to the escrow industry.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that:
- 2 (a) The escrow industry in California is regulated by several
- 3 different governmental agencies, depending on who is performing

1 the escrow services, and it is of critical importance for the various
2 regulatory agencies to cooperate with each other, and share
3 information where it is in the public interest to coordinate
4 regulatory action.

5 (b) It is of particular importance for the various regulators to
6 cooperate when one regulator is taking action against a person for
7 serious malfeasance or misconduct that is resulting in a
8 suspension, restriction, revocation or other prohibition on the
9 person's privilege to work in the escrow industry.

10 (c) There is a substantial governmental interest in ensuring that
11 persons who are being restricted or barred from one sector of the
12 escrow industry as a result of the harm to the public that they have
13 caused are not able to easily shift to employment in another sector
14 of the escrow industry.

15 (d) It is the purpose of this legislation to establish a mechanism
16 to enable, and to affirmatively encourage the various regulators to
17 cooperate with each other where enforcement action is being taken
18 against a person employed in the escrow industry.

19 SEC. 2. Section 10176.1 is added to the Business and
20 Professions Code, to read:

21 10176.1. (a) (1) Whenever the commissioner takes any
22 enforcement or disciplinary action against a licensee, ~~or any~~
23 ~~director, officer, or employee of a licensee, that directly or~~
24 ~~indirectly has the effect of restricting or prohibiting that person's~~
25 ~~employment with any licensee,~~ and the enforcement or
26 disciplinary action is related to escrow services provided pursuant
27 to paragraph (4) of subdivision (a) of Section 17006 of the
28 Financial Code ~~by that director, officer, or employee,~~ the
29 commissioner shall notify the Insurance Commissioner and the
30 Commissioner of Corporations of the action or actions taken.

31 (2) The commissioner shall provide the Insurance
32 Commissioner and the Commissioner of Corporations, in addition
33 to the notification of the action taken, with the written accusation
34 or order issued or filed in the matter and, at the request of the
35 Insurance Commissioner or the Commissioner of Corporations,
36 with any underlying factual material relevant to the enforcement
37 of disciplinary action.

38 (3) Without limiting or restricting the commissioner's
39 discretion to share information or engage in joint investigations
40 with other regulators, the commissioner shall not provide the



1 notification required by paragraph (1) until an administrative law
2 judge has upheld the order or accusation or the person has waived
3 hearing, unless the action taken by the commissioner is necessary
4 for the immediate protection of the public, and administrative
5 proceedings will be conducted postdeprivation, in which case the
6 notification shall be immediate.

7 (b) The commissioner shall establish, on the website
8 maintained by the Department of Real Estate, a link to the website
9 described in Section 17423.1 of the Financial Code. The link shall
10 be readily identifiable as a link to the data base of persons who have
11 been subject to disciplinary action for malfeasance or misconduct
12 related to the escrow industry.

13 SEC. 3. Section 17423.1 is added to the Financial Code, to
14 read:

15 17423.1. (a) (1) Whenever the commissioner takes any
16 enforcement or disciplinary action pursuant to Section 17414.1 or
17 Section 17423, or other relevant provision of law, that directly or
18 indirectly has the effect of restricting or prohibiting a person's
19 employment with any escrow agent, the commissioner shall notify
20 the Real Estate Commissioner and the Insurance Commissioner of
21 the action or actions taken.

22 (2) The commissioner shall provide the Real Estate
23 Commissioner and the Insurance Commissioner, in addition to the
24 notification of the action taken, with the written accusation or
25 order issued or filed in the matter and, at the request of the Real
26 Estate Commissioner or Insurance Commissioner, with any
27 underlying factual material relevant to the enforcement or
28 disciplinary action.

29 (3) Without limiting or restricting the commissioner's
30 discretion to share information or engage in joint investigations
31 with other regulators, the commissioner shall not provide the
32 notification required by paragraph (1) until an administrative law
33 judge has upheld the order or accusation or the person has waived
34 hearing, unless the action taken by the commissioner is necessary
35 for the immediate protection of the public, and administrative
36 proceedings will be conducted postdeprivation, in which case the
37 notification shall be immediate.

38 (b) (1) The commissioner shall establish a data base of all
39 persons who have been the subject of any disciplinary action that
40 triggers the notification requirements of this section. The data base



1 shall also include persons who have been disciplined by the
2 Insurance Commissioner, where notification has been provided
3 pursuant to Section 12414.30 of the Insurance Code, and by the
4 Real Estate Commissioner, where notification has been provided
5 pursuant to Section 10176.1 of the Business and Professions Code.

6 (2) The data base shall be posted on the website maintained by
7 the Department of Corporations, and shall be readily identifiable
8 as the data base of persons who have been subject to disciplinary
9 action for malfeasance or misconduct related to the escrow
10 industry.

11 SEC. 4. Section 12414.31 is added to the Insurance Code, to
12 read:

13 12414.31. (a) (1) Whenever the commissioner takes any
14 enforcement or disciplinary action against a title insurer, an
15 underwritten title company, or a controlled escrow company, or
16 any director, officer, or employee of a title insurer, an underwritten
17 title company, or a controlled escrow company, that directly or
18 indirectly has the effect of restricting or prohibiting that person's
19 employment with any title insurer, underwritten title company, or
20 controlled escrow company, and the enforcement or disciplinary
21 action is related to escrow services provided by that director,
22 officer, or employee, the commissioner shall notify the Real Estate
23 Commissioner and the Commissioner of Corporations of the
24 action or actions taken.

25 (2) The commissioner shall provide the Real Estate
26 Commissioner and the Commissioner of Corporations, in addition
27 to the notification of the action taken, with the written accusation
28 or order issued or filed in the matter and, at the request of the Real
29 Estate Commissioner or Commissioner of Corporations, with any
30 underlying factual material relevant to the enforcement of
31 disciplinary action.

32 (3) Without limiting or restricting the commissioner's
33 discretion to share information or engage in joint investigations
34 with other regulators, the commissioner shall not provide the
35 notification required by paragraph (1) until an administrative law
36 judge has upheld the order or accusation or the person has waived
37 hearing, unless the action taken by the commissioner is necessary
38 for the immediate protection of the public, and administrative
39 proceedings will be conducted postdeprivation, in which case the
40 notification shall be immediate.



1 (b) The commissioner shall establish, on the website
2 maintained by the Department of Insurance, a link to the website
3 described in Section 17423.1 of the Financial Code. The link shall
4 be readily identifiable as a link to the data base of persons who have
5 been subject to disciplinary action for malfeasance or misconduct
6 related to the escrow industry.

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