

AMENDED IN ASSEMBLY AUGUST 8, 2002

AMENDED IN ASSEMBLY JUNE 20, 2002

AMENDED IN SENATE APRIL 18, 2002

AMENDED IN SENATE APRIL 16, 2002

SENATE BILL

No. 1866

Introduced by Senator Figueroa

February 22, 2002

An act to amend Sections 11301, 11302, 11314, 11315, 11315.5, 11316, 11317, 11318, 11325, 11326, 11327, 11328, 11340, 11341, 11344, 11350, 11352, 11360, 11361, 11400, 11401, 11406, 11407, 11408, 11409, *11411*, *11412*, and 11422 of, to add Sections 11300.1, 11301.1, 11301.2, 11301.3, 11301.4, 11301.5, 11301.6, 11319.1, 11319.2, 11319.3, 11319.4, 11319.5, 11345, 11346, 11346.1, 11346.2, 11346.3, 11346.4, 11346.5, 11346.6, 11346.7, 11346.8, 11346.9, 11346.10, 11346.11, and 11405.1 to, and to add Chapter 10 (commencing with Section 11430) and Chapter 11 (commencing with Section 11500) to Part 3 of Division 4 of, to repeal and add Sections 11310, 11313, and 11410 of, and to amend the headings of Chapter 4 (commencing with Section 11340), Chapter 8 (commencing with Section 11410), and Chapter 9 (commencing with Section 11422) of Part 3 of Division 4 of, the Business and Professions Code, *and to amend Section 25604 of the Corporations Code*, relating to professions and vocations, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1866, as amended, Figueroa. Real estate appraisers.

Existing law provides for the Business, Transportation and Housing Agency, which consists of numerous agencies, including the Department of Corporations and the Office of Real Estate Appraisers. The Office of Real Estate Appraisers regulates the licensing and certification of real estate appraisers.

This bill would instead create the Office of Real Estate Appraisers in the Department of Corporations, which would regulate the licensing and certification of real estate appraisers. The bill *would declare the Legislature’s intent that the department continue the mission of the Office of Real Estate Appraisers and that it establish the Real Estate Appraisal Study Committee to study and discuss issues relating to the use of appraisals in making loans and investments.*

The bill would enact various new provisions regulating real estate appraisers and would make related changes in existing provisions-~~Because~~, including creating the Appraisal Recovery Fund as a continuously appropriated fund. The bill would also provide that funds appropriated from the State Corporations Fund for expenditure for any law or program of the Department of Corporations may come from all collected fees, except as specified.

The bill would become operative on the date the Governor establishes the Office of Real Estate Appraisers within the Department of Corporations, or July 1, 2004, whichever occurs first.

Because a willful violation of the provisions regulating real estate appraisers would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 11300.1 is added to the Business and
- 2 Professions Code, to read:
- 3 11300.1. (a) The Legislature finds and declares that it is *in*
- 4 the public interest for the purposes of economy and efficiency that



1 the administration and enforcement of the Real Estate Appraisers’
2 Licensing and Certification Law, as amended, be undertaken by
3 the Department of Corporations.

4 (b) Therefore, it is the intent of the Legislature to transfer the
5 administration of the Real Estate Appraisers’ Licensing and
6 Certification Law, as amended, from the Director of the Office of
7 Real Estate Appraisers to the Commissioner of Corporations of the
8 Department of Corporations.

9 SEC. 2. Section 11301 of the Business and Professions Code
10 is amended to read:

11 11301. There is hereby created within the Department of
12 Corporations the Office of Real Estate Appraisers. Consistent with
13 the applicable provisions of Title XI of the federal Financial
14 Institutions Reform, Recovery, and Enforcement Act of 1989, the
15 Commissioner of Corporations shall appoint an Assistant
16 Commissioner to serve as the head of the office.

17 SEC. 3. Section 11301.1 is added to the Business and
18 Professions Code, to read:

19 11301.1. The Commissioner of Corporations and Department
20 of Corporations succeed to, and are vested with, all duties, powers,
21 purposes, responsibilities, and jurisdiction of the Director of the
22 Office of Real Estate Appraisers and the Office of Real Estate
23 Appraisers as they relate to the Real Estate Appraisers’ Licensing
24 and Certification Law, including those powers and duties specified
25 in this part.

26 SEC. 4. Section 11301.2 is added to the Business and
27 Professions Code, to read:

28 11301.2. The department may use the unexpended balance of
29 funds available for use in connection with the performance of the
30 functions of the Office of Real Estate Appraisers to which the
31 department succeeds pursuant to Section 11301.1.

32 SEC. 5. Section 11301.3 is added to the Business and
33 Professions Code, to read:

34 11301.3. All officers and employees of the Office of Real
35 Estate Appraisers who, on the operative date of this section, are
36 performing any duty, power, purpose, responsibility, or
37 jurisdiction to which the department succeeds, who are serving in
38 the state civil service, other than as temporary employees, and
39 engaged in the performance of a function vested by the department
40 by Section 11301.1, shall be transferred to the department. The



1 status, positions, and rights of those persons shall not be affected
2 by the transfer and shall be retained by those persons as officers
3 and employees of the department, pursuant to the State Civil
4 Service Act (Part 2 (commencing with Section 18500) of Division
5 5 of Title 2 of the Government Code), except as to positions
6 exempted from civil service.

7 SEC. 6. Section 11301.4 is added to the Business and
8 Professions Code, to read:

9 11301.4. The department shall have possession and control of
10 all records, papers, offices, equipment, supplies, moneys, funds,
11 appropriations, licenses, permits, agreements, contracts, claims,
12 judgments, land, and other property, real or personal, connected
13 with the administration of, or held for the benefit or use of, the
14 Office of Real Estate Appraisers for the performance of the
15 functions transferred to the department by Section 11301.1.

16 SEC. 7. Section 11301.5 is added to the Business and
17 Professions Code, to read:

18 11301.5. All officers or employees employed after the
19 operative date of this section shall be appointed by the department.

20 SEC. 8. Section 11301.6 is added to the Business and
21 Professions Code, to read:

22 11301.6. (a) Any regulation, order, or other action, adopted,
23 prescribed, taken, or performed by the Office of Real Estate
24 Appraisers or by an officer of the Office of Real Estate Appraisers
25 in the administration of a program or the performance of a duty,
26 responsibility, or authorization transferred to the department by
27 Section ~~11300.1~~ 11301.1 shall remain in effect and shall be
28 deemed to be a regulation, order, or action of the department.

29 (b) No suit, action, or other proceeding lawfully commenced
30 by or against the Office of Real Estate Appraisers or any other
31 officer of the state, in relation to the administration of any program
32 or the discharge of any duty, responsibility, or authorization
33 transferred to the department by Section 11301.1, shall abate by
34 reason of the transfer of the program, duty, responsibility, or
35 authorization.

36 SEC. 9. Section 11302 of the Business and Professions Code
37 is amended to read:

38 11302. For the purpose of applying this part, the following
39 terms, unless otherwise expressly indicated, shall mean and have
40 the following definitions:



1 (a) “Agency” means the Business, Transportation and
2 Housing Agency.

3 (b) “Appraisal” means a written statement independently and
4 impartially prepared by a qualified appraiser setting forth an
5 opinion in a federally related transaction as to the market value of
6 an adequately described property as of a specific date, supported
7 by the presentation and analysis of relevant market information.

8 The term “appraisal” does not include an opinion given by a
9 real estate licensee or engineer or land surveyor in the ordinary
10 course of his or her business in connection with a function for
11 which a license is required under Chapter 7 (commencing with
12 Section 6700) or Chapter 15 (commencing with Section 8700) of
13 Division 3, or Chapter 3 (commencing with Section 10130) or
14 Chapter 7 (commencing with Section 10500) and the opinion shall
15 not be referred to as an appraisal. This part does not apply to a
16 probate referee acting pursuant to Sections 400 to 408, inclusive,
17 of the Probate Code unless the appraised transaction is federally
18 related.

19 (c) “Appraisal Foundation” means the Appraisal Foundation
20 that was incorporated as an Illinois not-for-profit corporation on
21 November 30, 1987.

22 (d) “Appraisal Subcommittee” means the Appraisal
23 Subcommittee of the Federal Financial Institutions Examination
24 Council.

25 (e) “Commissioner” means the Commissioner of
26 Corporations.

27 (f) “Federal financial institutions regulatory agency” means
28 the Federal Reserve Board, Federal Deposit Insurance
29 Corporation, Office of the Comptroller of the Currency, Office of
30 Thrift Supervision, Federal Home Loan Bank System, National
31 Credit Union Administration, the Resolution Trust Corporation,
32 and any other agency determined by the director to have
33 jurisdiction over transactions subject to this part.

34 (g) “Federally related real estate appraisal activity” means the
35 act or process of making or performing an appraisal on real estate
36 or real property in a federally related transaction and preparing an
37 appraisal as a result of that activity.

38 (h) “Federally related transaction” means any real
39 estate-related financial transaction which a federal financial
40 institutions regulatory agency engages in, contracts for, or



1 regulates and which requires the services of a state licensed real
2 estate appraiser regulated by this part. This term also includes any
3 transaction identified as such by a federal financial institutions
4 regulatory agency.

5 (i) “License” means any license, certificate, permit,
6 registration, or other means issued by the commissioner
7 authorizing the person to whom it is issued to act pursuant to this
8 part within this state.

9 (j) “Licensure” means the procedures and requirements a
10 person shall comply with in order to qualify for issuance of a
11 license and includes the issuance of the license.

12 (k) “Department” means the Department of Corporations.

13 (l) “Secretary” means the Secretary of the Business,
14 Transportation and Housing Agency.

15 (m) “State licensed real estate appraiser” is a person who is
16 issued and holds a current valid license under this part.

17 (n) “Uniform Standards of Professional Appraisal Practice”
18 are the standards of professional appraisal practice established by
19 the Appraisal Foundation.

20 (o) “Course provider” means a person or entity that provides
21 educational courses related to professional appraisal practice.

22 SEC. 10. Section 11310 of the Business and Professions Code
23 is repealed.

24 SEC. 11. Section 11310 is added to the Business and
25 Professions Code, to read:

26 11310. The commissioner and the assistant commissioner of
27 the Office of Real Estate Appraisers shall not be directly or
28 indirectly engaged in the appraisal business or any other affected
29 industry for the term of appointment, and thereafter the
30 commissioner and the assistant commissioner of the Office of Real
31 Estate Appraisers shall be subject to Section 87406 of the
32 Government Code.

33 SEC. 12. Section 11313 of the Business and Professions Code
34 is repealed.

35 SEC. 13. Section 11313 is added to the Business and
36 Professions Code, to read:

37 11313. The Office of Real Estate Appraisers is under the
38 supervision and control of the commissioner. The duty of
39 enforcing and administering this part is vested in the
40 commissioner. The commissioner may, from time to time, make,



1 amend, and rescind the rules, forms, and orders that are necessary
2 to carry out the provisions of this law, including rules and forms
3 governing applications and reports, and defining any terms,
4 whether or not used in this law, provided that the definitions are
5 consistent with the provisions of this law. For the purposes of rules
6 and forms, the commissioner may classify appraisals, persons, and
7 matters within the jurisdiction of the commissioner, and may
8 prescribe different requirements for different classes. The
9 commissioner may, in his or her discretion, waive a requirement
10 of a rule or form if, in the opinion of the commissioner, the
11 requirement is not in the public interest or necessary for the
12 protection of the public.

13 SEC. 14. Section 11314 of the Business and Professions Code
14 is amended to read:

15 11314. The department is required to include in its regulations
16 requirements for licensure and discipline of real estate appraisers
17 that ensure protection of the public interest and comply in all
18 respects with Title XI of the Financial Institutions Reform,
19 Recovery and Enforcement Act of 1989, Public Law 101-73 and
20 any subsequent amendments thereto. Requirements for each level
21 of licensure shall, at a minimum, meet the criteria established by
22 the Appraiser Qualification Board of the Appraisal Foundation.

23 SEC. 15. Section 11315 of the Business and Professions Code
24 is amended to read:

25 11315. (a) The commissioner may issue to a licensee,
26 applicant for licensure, person who acts in a capacity that requires
27 a license under this part, course provider, applicant for course
28 provider accreditation, or a person who, or entity that, acts in a
29 capacity that requires course provider accreditation, a citation that
30 may contain an order to pay an administrative fine assessed by the
31 office if the person or entity is in violation of this part or any
32 regulations adopted to carry out its purposes.

33 (b) A citation shall be written and describe with particularity
34 the nature of the violation, including a specific reference to the
35 provision of law determined to have been violated.

36 (c) If appropriate, the citation may contain an order of
37 abatement fixing a reasonable time for abatement of the violation.

38 (d) (1) If appropriate, the citation may contain an order to
39 enroll in and successfully complete additional basic or continuing
40 education courses.



1 (2) When a citation imposes an education course or courses, the
2 completion of the course or courses by the licensee shall be subject
3 to the following conditions:

4 (A) The citation imposing the education requirement may
5 specify the specific course content, the number of hours to be
6 completed, the date by which the course is to be completed, and
7 the method by which satisfaction of the order is to be reported to
8 the office.

9 (B) An education course imposed by citation may not be
10 credited towards the licensee’s continuing education requirements
11 pursuant to Section 11360.

12 (C) Only courses accredited by the office shall be accepted for
13 purposes of fulfilling education imposed by citation.

14 (D) Any failure to satisfactorily complete or timely report an
15 education course to the commissioner by the date specified in the
16 citation shall result in the automatic suspension of the licensee’s
17 real estate appraiser license as of that date.

18 (E) Reinstatement of a license suspended pursuant to
19 subparagraph (D) shall be made only if all of the following events
20 occur:

21 (i) Satisfactory verification of the completion of the education
22 course or courses imposed by the citation.

23 (ii) Completion and filing of a reinstatement application.

24 (iii) Payment of all applicable fees, fines, or penalties.

25 (e) In no event shall an administrative fine assessed by the
26 commissioner by citation or order exceed ten thousand dollars
27 (\$10,000) per violation. In assessing a fine, the commissioner shall
28 give due consideration to the appropriateness of the amount of the
29 fine with respect to factors such as the gravity of the violation, the
30 good faith of the person who committed the violation, and the
31 history of previous violations.

32 (f) A citation or fine assessment issued pursuant to a citation
33 shall inform the person cited that, if he or she desires a hearing to
34 contest the finding of a violation, he or she must request a hearing
35 by written notice to the office within 30 days of the date of issuance
36 of the citation or assessment. Hearings shall be held pursuant to
37 Chapter 5 (commencing with Section 11500) of Part 1 of Division
38 3 of Title 2 of the Government Code. The citation or fine
39 assessment shall also inform the person cited that failure to
40 respond to the citation or fine assessment shall result in any order



1 or administrative fine imposed becoming final, and that any order
2 or administrative fine shall constitute an enforceable civil
3 judgment in addition to any other penalty or remedy available
4 pursuant to law.

5 (g) (1) If a licensee, applicant for licensure, person who acts in
6 a capacity that requires a license under this part, course provider,
7 applicant for course provider accreditation, or a person who, or
8 entity that, acts in a capacity that requires course provider
9 accreditation fails to pay a fine, penalty, or required installment
10 payment on the fine or penalty by the date when it is due, the
11 ~~director~~ *commissioner* shall charge him or her interest and a
12 penalty of 10 percent of the fine or installment payment amount.
13 Interest shall be charged at the pooled money investment rate.

14 (2) Failure of a licensee, applicant for licensure, person who
15 acts in a capacity that requires a license under this part, course
16 provider, applicant for course provider accreditation, or a person
17 who, or entity that, acts in a capacity that requires course provider
18 accreditation to pay a fine or required installment payment on the
19 fine within 30 days of the date ordered in the citation, unless the
20 citation is being appealed, shall be cause for additional
21 disciplinary action by the commissioner.

22 (3) If a citation is not contested and a fine or fine payment is not
23 paid within 30 days of the date ordered in the citation or other order
24 of the commissioner, the full amount of the unpaid balance of the
25 assessed fine shall be added to any fee for renewal of a license. A
26 license shall not be renewed prior to payment of the renewal fee
27 and fine.

28 (4) The commissioner may order the full amount of any fine to
29 be immediately due and payable if any payment due on a fine is not
30 received by the office within 30 days of its due date.

31 (5) Any fine, or interest thereon, not paid within 30 days of a
32 final citation or order shall constitute a valid and enforceable civil
33 judgment.

34 (6) A certified copy of the final order, or the citation with
35 certification by the commissioner that no request for hearing was
36 received within 30 days of the date of issuance of the citation, shall
37 be conclusive proof of the civil judgment, its terms, and its
38 validity.

39 (h) A citation may be issued without the assessment of an
40 administrative fine.



1 (i) Any administrative fine or penalty imposed pursuant to this
2 section shall be in addition to any other criminal or civil penalty
3 provided for by law.

4 (j) Administrative fines collected pursuant to this section shall
5 be deposited in the State Corporations Fund.

6 SEC. 16. Section 11315.5 of the Business and Professions
7 Code is amended to read:

8 11315.5. Notwithstanding any other provision of law, the
9 department may, at any time the commissioner deems it to be in the
10 public interest, enter into a settlement of any administrative
11 allegation of violation of this part, or of regulations promulgated
12 pursuant thereto, upon any terms and conditions as the
13 commissioner deems appropriate. Those settlements may include,
14 but are not limited to, a plan for abatement of the violation or
15 rehabilitation or requalification of the applicant, licensed
16 appraiser, course provider, or person acting in a capacity requiring
17 a license or course provider accreditation within a specified time.

18 SEC. 17. Section 11316 of the Business and Professions Code
19 is amended to read:

20 11316. (a) The commissioner may assess a fine against a
21 licensee, applicant for licensure, person who acts in a capacity that
22 requires a license under this part, course provider, applicant for
23 course provider accreditation, or a person who, or entity that, acts
24 in a capacity that requires course provider accreditation for
25 violation of this part or any regulations adopted to carry out its
26 purposes.

27 (b) (1) Failure of a licensee, applicant for licensure, person
28 who acts in a capacity that requires a license under this part, course
29 provider, applicant for course provider accreditation, or a person
30 who, or entity that, acts in a capacity that requires course provider
31 accreditation to pay a fine or make a fine payment within 30 days
32 of the date of assessment shall result in disciplinary action by the
33 commissioner. If a licensee, applicant for licensure, person who
34 acts in a capacity that requires a license under this part, course
35 provider, applicant for course provider accreditation, or a person
36 who, or entity that, acts in a capacity that requires course provider
37 accreditation fails to pay a fine within 30 days, the commissioner
38 shall charge him or her interest and a penalty of 10 percent of the
39 fine or payment amount. Interest shall be charged at the pooled
40 money investment rate.



1 (2) If a fine is not paid, the full amount of the assessed fine shall
2 be added to any fee for renewal of a license. A license shall not be
3 renewed prior to payment of the renewal fee and fine.

4 (3) The commissioner may order the full amount of any fine to
5 be immediately due and payable if any payment on the fine, or
6 portion thereof, is not received within 30 days of its due date.

7 (4) Any fine, or interest thereon, not paid within 30 days of a
8 final order shall constitute a valid and enforceable civil judgment.

9 (5) A certified copy of the final order shall be conclusive proof
10 of the validity of the order of payment and the terms of payment.

11 (c) Any administrative fine or penalty imposed pursuant to this
12 section shall be in addition to any other criminal or civil penalty
13 provided for by law.

14 (d) Administrative fines collected pursuant to this section shall
15 be deposited in the State Corporations Fund.

16 SEC. 18. Section 11317 of the Business and Professions Code
17 is amended to read:

18 11317. The office shall publish a summary of public
19 disciplinary actions taken by the commissioner, including
20 resignations while under investigation and the violations upon
21 which these actions are based, which shall meet, at a minimum, the
22 requirements of the appraisal subcommittee. The commissioner
23 shall not publish identifying information with respect to private
24 reprovals or letters of warning, which shall remain confidential.

25 SEC. 19. Section 11318 of the Business and Professions Code
26 is amended to read:

27 11318. (a) A licensee, applicant for licensure, course
28 provider, or applicant for course provider accreditation shall
29 report to the commissioner, in writing, the occurrence of any of the
30 following events within 30 days of the date he or she has
31 knowledge of any of these events:

32 (1) The conviction of the licensee, applicant for licensure,
33 course provider, or applicant for course provider accreditation of
34 any of the following:

35 (A) A felony.

36 (B) Any crime related to the qualifications, functions, or duties
37 of a licensee, or to acts or activities committed in the course of the
38 licensee's or course provider's practice.

39 As used in this section, a conviction includes an initial plea,
40 verdict, or finding of guilty, plea of no contest, or pronouncement



1 of sentence by a trial court even though that conviction may not be
2 final, the sentence may not be imposed, or all appeals may not be
3 exhausted.

4 (2) The cancellation, revocation, or suspension of a license,
5 other authority to practice, or refusal to renew a license or other
6 authority to practice as an occupational or professional licensee or
7 course provider, by any other regulatory entity.

8 (3) The cancellation, revocation, or suspension of the right to
9 practice before any governmental body or agency.

10 (b) The report required by subdivision (a) shall be signed by the
11 licensee, applicant for licensure, course provider, or applicant for
12 course provider accreditation and clearly set forth the facts that
13 constitute the reportable event. The report shall include the title of
14 the matter, court or agency name, docket number, and dates of
15 occurrence of the reportable event.

16 (c) The licensee, applicant for licensure, course provider, or
17 applicant for course provider accreditation shall also promptly
18 obtain and submit a certified copy of the police or administrative
19 agency's investigative report and certified copies of the court or
20 administrative agency's docket, complaint or accusation, and
21 judgment or other order.

22 (d) A licensee, applicant for licensure, course provider, or
23 applicant for course provider accreditation shall promptly respond
24 to oral or written inquiries from the office concerning the
25 reportable events.

26 SEC. 20. Section 11319.1 is added to the Business and
27 Professions Code, to read:

28 11319.1. Without limitation, the functions, powers, and
29 duties of the commissioner include the following:

30 (a) To issue or refuse to issue a license as provided by this part.

31 (b) To revoke or suspend for cause any license as provided by
32 this part.

33 (c) To keep records of licenses issued under this part.

34 (d) To receive, consider, investigate, and act upon complaints
35 made in connection with a licensee.

36 (e) To prescribe the forms of, and receive applications for,
37 licenses and reports, books, and records required to be made by a
38 licensee under this part.

39 (f) To subpoena documents and witnesses and compel their
40 attendance and production, to administer oaths, and to require the



1 production of books, papers, or other materials relevant to any
2 inquiry authorized by this part.

3 (g) To require information with regard to a license applicant
4 that the commissioner may deem necessary, with regard for the
5 paramount public interest in ascertaining the experience,
6 background, honesty, truthfulness, integrity, and competency of
7 the license applicant for financial transactions involving the
8 appraisal of real property, and if the license applicant is an entity
9 other than an individual, in ascertaining the honesty, truthfulness,
10 integrity, and competency of an officer or director of the
11 corporation, association, or other entity, or the members of a
12 partnership.

13 (h) To enforce by order any provision of this part.

14 (i) To levy fees, fines, and charges in an amount sufficient to
15 cover the cost of the services performed in administering this part,
16 as set forth by rule.

17 (j) To appoint examiners, supervisors, experts, and special
18 assistants as needed to effectively and efficiently administer this
19 division.

20 (k) To require a licensee to make and submit special reports.

21 SEC. 21. Section 11319.2 is added to the Business and
22 Professions Code, to read:

23 11319.2. Neither the commissioner nor any employee of the
24 Department of Corporations shall be precluded from obtaining an
25 appraisal from a licensee under this part, subject to the rules that
26 may be adopted hereunder or pursuant to other proper authority.

27 SEC. 22. Section 11319.3 is added to the Business and
28 Professions Code, to read:

29 11319.3. The commissioner may require licensees to
30 maintain a file of all advertising copy for a period of 90 days from
31 the date of its use. The file shall be available to the commissioner
32 upon request.

33 SEC. 23. Section 11319.4 is added to the Business and
34 Professions Code, to read:

35 11319.4. The commissioner, in his or her discretion, may
36 honor requests from interested persons for interpretive opinions.

37 SEC. 24. Section 11319.5 is added to the Business and
38 Professions Code, to read:



1 11319.5. In any proceeding under this law, the burden of
2 proving an exemption or an exception from a definition is upon the
3 person claiming it.

4 SEC. 25. Section 11325 of the Business and Professions Code
5 is amended to read:

6 11325. (a) The commissioner shall adopt regulations which
7 determine the parameters of appraisal work which may be
8 performed by licensed appraisers.

9 (b) Regulations adopted by the commissioner pursuant to this
10 section shall, at a minimum, meet the standards established by
11 federal financial institution regulatory agencies as required by
12 Section 1112 of Title XI of the Financial Institutions Reform,
13 Recovery and Enforcement Act of 1989, Public Law 101-73.

14 SEC. 26. Section 11326 of the Business and Professions Code
15 is amended to read:

16 11326. (a) The county assessor shall, upon request, disclose
17 information, furnish abstracts, copies of maps, construction
18 permits, notices of completion, sales confirmation, and permit
19 access to all records in his or her office or branch offices, to the
20 department when it is conducting an investigation related to
21 professional conduct of appraisers.

22 (b) Whenever the assessor discloses information, furnishes
23 abstracts, and all of the above and permits access to records to the
24 department, the department shall reimburse the assessor for any
25 reasonable cost incurred as a result thereof.

26 SEC. 27. Section 11327 of the Business and Professions Code
27 is amended to read:

28 11327. The commissioner shall adopt regulations governing
29 the process and procedure of applying for a trainee license, which
30 shall meet, at a minimum, the requirements of the Appraisal
31 Foundation.

32 SEC. 28. Section 11328 of the Business and Professions Code
33 is amended to read:

34 11328. To substantiate documentation of appraisal
35 experience, or to facilitate the investigation of illegal or unethical
36 activities by a licensee, applicant, or other person acting in a
37 capacity that requires a license, that licensee, applicant, or person
38 shall, upon the request of the commissioner, submit copies of
39 appraisals, or any work product which is addressed by the Uniform
40 Standards of Professional Appraisal Practice, and all supporting



1 documentation and data to the office. This material shall be
2 confidential in accordance with the confidentiality provisions of
3 the Uniform Standards of Professional Appraisal Practice.

4 SEC. 29. The heading of Chapter 4 (commencing with
5 Section 11340) of Part 3 of Division 4 of the Business and
6 Professions Code is amended to read:

7

8 CHAPTER 4. LICENSES, CERTIFICATION APPLICATION, AND
9 EXAMINATIONS

10

11 SEC. 30. Section 11340 of the Business and Professions Code
12 is amended to read:

13 11340. The commissioner shall adopt regulations governing
14 the process and the procedure of applying for a license which shall
15 include, but not be limited to, necessary experience or education,
16 equivalency, and minimum requirements of the Appraisal
17 Foundation, if any.

18 (a) For purposes of the educational background requirements
19 established under this section, the commissioner shall grant credits
20 for any courses taken on real estate appraisal ethics or practices
21 pursuant to Section 10153.2, or which are deemed by the
22 commissioner to meet standards established pursuant to this part
23 and federal law.

24 (b) For the purpose of implementing and applying this section,
25 the ~~director~~ *commissioner* shall prescribe by regulation
26 “equivalent courses” and “equivalent experience.” The
27 experience of employees of an assessor’s office or of the State
28 Board of Equalization in setting forth opinions of value of real
29 property for tax purposes shall be deemed equivalent to experience
30 in federally related real estate appraisal activity. Notwithstanding
31 any other law, a holder of a valid real estate broker license shall be
32 deemed to have completed appraisal license application
33 experience requirements upon proof that he or she has
34 accumulated 1,000 hours of experience in the valuation of real
35 property.

36 (c) The commissioner shall adopt regulations for licensure
37 which shall meet, at a minimum, the requirements and standards
38 established by the Appraisal Foundation, the Resolution Trust
39 Corporation, and the federal financial institutions regulatory
40 agencies acting pursuant to Section 1112 of the Financial



1 Institutions Reform Recovery and Enforcement Act of 1989,
2 Public Law 101-73 (FIRREA). The commissioner shall, by
3 regulation, require the application for a real estate appraiser
4 license to include the applicant's social security number.

5 (d) In evaluating the experience of any applicant for a license,
6 regardless of the number of hours required of that applicant, the
7 commissioner shall apply the same standards to the experience of
8 all applicants.

9 (e) No license shall be issued to an applicant who is less than
10 18 years of age.

11 SEC. 31. Section 11341 of the Business and Professions Code
12 is amended to read:

13 11341. A license issued with an effective date of January 1,
14 2000, or later shall be valid for two years unless otherwise
15 extended or limited by the commissioner.

16 SEC. 32. Section 11344 of the Business and Professions Code
17 is amended to read:

18 11344. (a) Notwithstanding Section 11341, a temporary
19 license may be issued pending the outcome of the fingerprint and
20 background check or as otherwise prescribed by the director. A
21 temporary license is valid for up to 150 days. Unless otherwise
22 prohibited pursuant to Section 11350.6 of the Welfare and
23 Institutions Code, a temporary license may be renewed once at the
24 discretion of the commissioner.

25 (b) The commissioner may issue a probationary license as
26 follows:

27 (1) By term.

28 (2) By conditions to be observed in the exercise of the
29 privileges granted.

30 SEC. 33. Section 11345 is added to the Business and
31 Professions Code, to read:

32 11345. (a) Licenses issued under this part remain in effect
33 until they are surrendered, revoked, or suspended.

34 (b) Surrender of a license becomes effective 30 days after
35 receipt of an application to surrender the license or within a shorter
36 period of time that the commissioner may determine, unless a
37 revocation or suspension proceeding is pending when the
38 application is filed or a proceeding to revoke or suspend or to
39 impose conditions upon the surrender is instituted within 30 days
40 after the application is filed. If a proceeding is pending or



1 instituted, surrender of a license becomes effective at the time and
2 upon the conditions that the commissioner determines.

3 SEC. 34. Section 11346 is added to the Business and
4 Professions Code, to read:

5 11346. For the purpose of discovering violations of this part
6 or securing information required by him or her in the
7 administration and enforcement of this division, the commissioner
8 may at any time investigate the loans and business, and examine
9 the books, accounts, records, and files used in the business, of
10 every person engaged in the business of real estate appraisals,
11 whether the person acts or claims to act as principal or agent, or
12 under or without the authority of this part. For the purpose of
13 examination, the commissioner and his or her representatives shall
14 have free access to the offices and places of business, books,
15 accounts, papers, records, files, safes, and vaults of all these
16 persons.

17 SEC. 35. Section 11346.1 is added to the Business and
18 Professions Code, to read:

19 11346.1. In making any examination or investigation, the
20 commissioner may, for a reasonable time not to exceed 30 days,
21 take possession of the books, records, accounts, and other papers
22 pertaining to the business. The commissioner may place a keeper
23 in exclusive charge and custody of the books, records, accounts,
24 and other papers in the office or place where they are usually kept.
25 During possession, no person shall remove or attempt to remove
26 any of the books, accounts, papers, records, files, safes, and vaults,
27 or any part thereof, except in compliance with a court order or
28 written consent of the commissioner.

29 SEC. 36. Section 11346.2 is added to the Business and
30 Professions Code, to read:

31 11346.2. The officers, employees, partners, directors, and
32 stockholders may inspect and examine the books, accounts,
33 papers, records, files, safes, and vaults while they are in the
34 custody of the commissioner. Employees may make entries in
35 these documents reflecting current operations or transactions.

36 SEC. 37. Section 11346.3 is added to the Business and
37 Professions Code, to read:

38 11346.3. The power of investigation and examination by the
39 commissioner is not terminated by the surrender, suspension, or
40 revocation of any license issued by him or her.



1 SEC. 38. Section 11346.4 is added to the Business and
2 Professions Code, to read:

3 11346.4. Whenever the commissioner deems it necessary for
4 the general welfare of the public, he or she has continuous
5 authority to exercise the powers set forth in this part whether or not
6 an application for a license has been filed with the commissioner,
7 any license has been issued, or if issued, has been suspended or
8 revoked.

9 SEC. 39. Section 11346.5 is added to the Business and
10 Professions Code, to read:

11 11346.5. The commissioner may require the attendance of
12 witnesses and examine under oath all persons whose testimony he
13 or she requires relative to real estate appraisals regulated by this
14 part or to the subject matter of any examination, investigation, or
15 hearing.

16 SEC. 40. Section 11346.6 is added to the Business and
17 Professions Code, to read:

18 11346.6. (a) The cost of each examination of a licensee or a
19 person subject to this part shall be paid to the commissioner by the
20 licensee or person examined, and the commissioner may maintain
21 an action for the recovery of the cost in any court of competent
22 jurisdiction. In determining the cost of an examination, the
23 commissioner may use the estimated average hourly cost for all
24 persons performing examinations of licensees or other persons
25 subject to this part for the fiscal year.

26 (b) For the purpose of this section only, no person other than a
27 licensee shall be deemed to be a person subject to this part until the
28 person is determined to be a person subject to this part by an
29 administrative hearing in accordance with Chapter 5
30 (commencing with Section 11500) of Part 1 of Division 3 of Title
31 2 of the Government Code or by a judicial hearing in any court of
32 competent jurisdiction.

33 SEC. 41. Section 11346.7 is added to the Business and
34 Professions Code, to read:

35 11346.7. After an examination, investigation, or hearing
36 under this part, if the commissioner deems it of public interest or
37 advantage, he or she may certify a record to the proper prosecuting
38 official of the city, county, or city and county in which the act
39 complained of, examined, or investigated occurred.



1 SEC. 42. Section 11346.8 is added to the Business and
2 Professions Code, to read:

3 11346.8. The commissioner may require the production for
4 examination in this state of all books, records, and supporting data
5 used by the licensee in the preparation of reports to the
6 commissioner. The books, records, and supporting data shall be
7 made available for examination by the commissioner in this state
8 within 10 days after a written demand.

9 SEC. 43. Section 11346.9 is added to the Business and
10 Professions Code, to read:

11 11346.9. The commissioner may, upon three days' notice and
12 a hearing, suspend any license for a period not exceeding 30 days,
13 pending investigation.

14 SEC. 44. Section 11346.10 is added to the Business and
15 Professions Code, to read:

16 11346.10. Subject to Section 11345, any licensee may
17 surrender any license by delivering to the commissioner written
18 notice that the licensee surrenders that license. Surrender of the
19 license does not affect the licensee's civil or criminal liability for
20 acts committed prior to surrender of the license.

21 SEC. 45. Section 11346.11 is added to the Business and
22 Professions Code, to read:

23 11346.11. Whenever, in the opinion of the commissioner, any
24 person is engaged in the real estate appraisal business, as defined
25 in this part, without a license from the commissioner, or any
26 licensee is violating any provision of this division, the
27 commissioner may order that person or licensee to desist and to
28 refrain from engaging in the business or further violating this
29 division. If, after the order is made, a written request for a hearing
30 is filed and no hearing is held within 30 days thereafter, the order
31 is rescinded.

32 SEC. 46. Section 11350 of the Business and Professions Code
33 is amended to read:

34 11350. The commissioner shall adopt regulations governing
35 the process and procedure of applying for reciprocity, which shall
36 meet, at a minimum, the requirements of the Appraisal
37 Subcommittee.

38 SEC. 47. Section 11352 of the Business and Professions Code
39 is amended to read:



1 11352. The commissioner shall adopt regulations governing
2 the process and procedure of applying for temporary practice,
3 which shall meet, at a minimum, the requirements of the Appraisal
4 Subcommittee.

5 SEC. 48. Section 11360 of the Business and Professions Code
6 is amended to read:

7 11360. (a) The commissioner shall adopt regulations
8 governing the process and procedures for renewal of a license
9 which shall include, but not be limited to, continuing education
10 requirements, which shall be reported on the basis of four-year
11 continuing education cycles.

12 (b) An applicant for renewal of a license shall be required to
13 demonstrate his or her continuing fitness to hold a license prior to
14 its renewal. Applicants shall also fulfill continuing education
15 requirements established pursuant to this section and may certify
16 that they have read and understand all applicable California and
17 federal laws and regulations pertaining to the licensing and
18 certification of real estate appraisers in lieu of being required to
19 take a minimum of four hours of federal and California
20 appraisal-related statutory and regulatory law every four years.

21 SEC. 49. Section 11361 of the Business and Professions Code
22 is amended to read:

23 11361. The commissioner shall adopt regulations for
24 implementation of this chapter to ensure that persons engaged in
25 appraisal activity have current knowledge of real estate appraisal
26 theories, practices, and techniques which will provide a high
27 degree of service and protection to the public.

28 SEC. 50. Section 11400 of the Business and Professions Code
29 is amended to read:

30 11400. (a) Initial application fees shall be paid to the
31 department at the time of application.

32 (b) All issuance-related fees shall be paid to the department at
33 the time the issuance application is submitted to the department.

34 (c) All fees shall be paid by cashier's check, certified check,
35 money order, or government purchase order. In addition, the
36 department may accept personal checks or credit cards for the
37 payment of fees. All fees shall be deemed earned by the
38 department upon receipt and are refundable at the discretion of the
39 department.



1 SEC. 51. Section 11401 of the Business and Professions Code
2 is amended to read:

3 11401. (a) The fee to take an examination or reexamination
4 for a license shall be set at an amount not to exceed the cost to the
5 department as determined by competitive bid.

6 (b) The department may provide that the applicant pay the fee
7 directly to the examination provider.

8 SEC. 52. Section 11405.1 is added to the Business and
9 Professions Code, to read:

10 11405.1. To the extent demonstrated efficiencies are shown as
11 of June 30, 2006, by the transformation of the Office of Real Estate
12 Appraisers to the Department of Corporations, the commissioner
13 may reduce the fees under Sections 11404 and 11405 of this part
14 by an amount not to exceed 10 percent to be executed by rule or
15 order.

16 SEC. 53. Section 11406 of the Business and Professions Code
17 is amended to read:

18 11406. (a) The commissioner shall by regulation establish
19 fees for approval of basic education and continuing education
20 courses or their equivalent, or for the evaluation of petitions of
21 applicants based upon claims of equivalency pursuant to Section
22 11340. The fees established by regulation shall be sufficient to
23 cover the costs incurred by the commissioner in processing
24 applications for course approvals and petitions for equivalency.

25 (b) The commissioner shall by regulation establish fees for
26 approval of courses of study required to be taken by applicants for
27 licenses. The fees established by regulation shall be sufficient to
28 cover the costs incurred by the commissioner in processing
29 applications for course approvals and petitions for equivalency.

30 SEC. 54. Section 11407 of the Business and Professions Code
31 is amended to read:

32 11407. The commissioner may by regulation prescribe fees
33 lower than the maximum fees established by this chapter if he or
34 she determines that lower fees will be adequate to offset the costs
35 incurred by the department and the committee in the
36 administration of this part.

37 SEC. 55. Section 11408 of the Business and Professions Code
38 is amended to read:



1 11408. (a) Application for issuance of a license must be
2 submitted to the commissioner within one year of the successful
3 completion of the examination.

4 (b) Every applicant or licensee shall pay federal registry fees
5 and state registry processing fees to the state as required as part of
6 issuance-related fees.

7 SEC. 56. Section 11409 of the Business and Professions Code
8 is amended to read:

9 11409. (a) Except as otherwise provided by law, any order
10 issued in resolution of a disciplinary proceeding may direct a
11 licensee, applicant for licensure, person who acts in a capacity that
12 requires a license under this part, course provider, applicant for
13 course provider accreditation, or a person who, or entity that, acts
14 in a capacity that requires course provider accreditation found to
15 have committed a violation or violations of statutes or regulations
16 relating to real estate appraiser practice to pay a sum not to exceed
17 the reasonable costs of investigation, enforcement, and
18 prosecution of the case.

19 (b) Where an order for recovery of costs is made and payment
20 is not made within 30 days of the date directed in the
21 commissioner's decision, the order for recovery shall constitute a
22 valid and enforceable civil judgment. This judgment shall be in
23 addition to, and not in place of, any other criminal or civil penalties
24 provided for by law.

25 (c) (1) Failure of a licensee, applicant for licensure, person
26 who acts in a capacity that requires a license under this part, course
27 provider, applicant for course provider accreditation, or a person
28 who, or entity that, acts in a capacity that requires course provider
29 accreditation to pay recovery costs or make a recovery cost
30 payment within 30 days of the date ordered, shall result in
31 disciplinary action by the office. If the person fails to pay recovery
32 costs within 30 days, that person shall pay interest and a penalty
33 of 10 percent of the recovery costs or payment amount. Interest
34 shall be charged at the pooled money investment rate.

35 (2) If recovery costs are not paid as ordered, the full amount of
36 the assessed fine shall be added to any fee for renewal of a license.
37 A license shall not be renewed prior to payment of the renewal fee
38 and recovery costs.

39 (3) The commissioner may order the full amount of any
40 recovery costs to be immediately due and payable if any payment



1 on the recovery costs, or portion thereof, is not received within 30
2 days of its due date.

3 (4) Any recovery costs, or interest thereon, not paid within 30
4 days of a final order shall constitute a valid and enforceable civil
5 judgment.

6 (d) A certified copy of the commissioner's decision shall be
7 conclusive proof of the validity of the order and its terms.

8 (e) The commissioner shall not renew or reinstate the license
9 of any licensee who has failed to pay all of the costs ordered under
10 this section.

11 (f) Nothing in this section shall preclude the commissioner
12 from including the recovery of the costs of investigation and
13 enforcement of a case in any default decision or stipulated
14 settlement.

15 SEC. 57. The heading of Chapter 8 (commencing with
16 Section 11410) of Part 3 of Division 4 of the Business and
17 Professions Code is amended to read:

18

19 CHAPTER 8. STATE CORPORATIONS FUND

20

21 SEC. 58. Section 11410 of the Business and Professions Code
22 is repealed.

23 SEC. 59. Section 11410 is added to the Business and
24 Professions Code, to read:

25 11410. All money paid or collected under this part shall be
26 deposited in the State Treasury to the credit of the State
27 Corporations Fund. The administration of this part shall be
28 supported out of the State Corporations Fund.

29 SEC. 60. *Section 11411 of the Business and Professions Code*
30 *is amended to read:*

31 11411. ~~There shall be separate accounts in the Real Estate~~
32 ~~Appraisers Regulation Fund for purposes of administration and for~~
33 ~~purposes of recovery. These accounts shall be known respectively~~
34 ~~as the Administration Account and the Recovery Account. On and~~
35 ~~after January 1, 2003 2006, 5 percent of the amount of any license~~
36 ~~or certificate fee collected under this part shall be credited to the~~
37 ~~Appraisal Recovery Account Fund. The Appraisal Recovery Fund~~
38 ~~is created in the State Treasury. Notwithstanding Section 13340 of~~
39 ~~the Government Code, the Appraisal Recovery Account Fund is~~



1 ~~a continuing appropriation~~ continuously appropriated for
2 encumbrance for carrying out this chapter.

3 SEC. 61. Section 11412 of the Business and Professions Code
4 is amended to read:

5 11412. (a) On or before ~~January 1, 2002~~ July 1, 2004, the
6 ~~director~~ commissioner shall determine the number of complaint
7 cases containing judicial findings of fraud that may be eligible for
8 recovery pursuant to future regulations that are closely analogous
9 to those which have been adopted for the Real Estate Recovery
10 Fund established in Chapter 6.5 (commencing with Section
11 10470) of Part 1. This information shall be used by the ~~director~~
12 commissioner to determine whether ~~a real estate appraiser~~ the
13 Appraisal Recovery ~~Account~~ Fund is necessary or ~~whether to~~
14 ~~recommend that it should be eliminated~~ should be eliminated, and
15 to report his or her recommendation to the Governor by July 1,
16 2004.

17 (b) On or before January 1, ~~2004~~ 2007, regulations shall be
18 adopted for administration of the Appraisal Recovery ~~Account~~
19 Fund, which shall include claims, funding, and administrative
20 procedures closely analogous to those which have been adopted
21 for the Real Estate Recovery Fund established in Chapter 6.5
22 (commencing with Section 10470) of Part 1.

23 (c) The statute of limitations for claims against the fund arising
24 between the effective date of this part and the creation of the fund
25 shall be tolled until the date the fund is created.

26 SEC. 62. The heading of Chapter 9 (commencing with
27 Section 11422) of Part 3 of Division 4 of the Business and
28 Professions Code is amended to read:

29
30 CHAPTER 9. ROSTER NOTICE AND OTHER REQUIREMENTS

31
32 ~~SEC. 61.~~

33 SEC. 63. Section 11422 of the Business and Professions Code
34 is amended to read:

35 11422. The commissioner shall, on or before February 1,
36 1994, and at least annually thereafter, transmit to the appraisal
37 subcommittee specified in subdivision (d) of Section 11302 a
38 roster of persons licensed pursuant to this part.

39 ~~SEC. 62.~~



1 *SEC. 64.* Chapter 10 (commencing with Section 11430) is
2 added to Part 3 of Division 4 of the Business and Professions Code,
3 to read:

4
5 CHAPTER 10. ENFORCEMENT
6

7 11430. (a) Every person subject to this part shall keep
8 documents and records that will properly enable the commissioner
9 to determine whether the appraisal services performed by that
10 person comply with the provisions of this part and with all rules
11 and orders made by the commissioner under this part. Upon
12 request of the commissioner, a state licensed real estate appraiser
13 shall file an authorization for disclosure to the commissioner of
14 financial records of the licensed business pursuant to Section
15 77473 of the Government Code.

16 (b) The business documents and records of every state licensed
17 real estate appraiser are subject to inspection and examination by
18 the commissioner at any time without prior notice. Any person
19 subject to this division shall, upon request and within the time
20 specified in the request, allow inspection and copying of any
21 documents and records by the commissioner or his or her
22 authorized representative.

23 (c) The cost of every inspection and examination of a licensee
24 or other person subject to this part shall be paid to the
25 commissioner by the licensee or person examined, and the
26 commissioner may maintain an action for the recovery of these
27 costs in any court of competent jurisdiction. In determining the
28 cost of any inspection or examination, the commissioner may use
29 the estimated average hourly cost, including overhead, for all
30 persons performing inspections or examinations of licensees or
31 other persons subject to this division for the fiscal year. For the
32 purpose of this subdivision only, no person other than a licensee
33 shall be deemed to be a person subject to this division unless and
34 until the person is determined to be a person subject to this division
35 by an administrative hearing in accordance with Chapter 5
36 (commencing with Section 11500) of Part 1 of Division 3 of Title
37 2 of the Government Code, or by a judicial hearing in any court of
38 competent jurisdiction.

39 (d) Investigation and examination reports prepared by the
40 commissioner's duly designated representatives are not public

1 reports. Those reports may be disclosed to the officers or directors
2 of a licensee that is the subject of the report for the purpose of
3 corrective action by the officers or directors. Such a disclosure
4 shall not operate as a waiver of the exemption specified in
5 subdivision (d) of Section 6254 of the Government Code.

6 11431. (a) The commissioner may refer the evidence that is
7 available concerning any violation of this law or of any rule or
8 order adopted under this part to the district attorney of the county
9 in which the violation occurred. The district attorney may, with or
10 without the commissioner's referral, institute criminal
11 proceedings under this law. The commissioner and his or her
12 counsel, deputies, or assistants may, upon request of the district
13 attorney, assist the district attorney in presenting the law or facts
14 at the trial.

15 (b) After an examination, investigation, or hearing under this
16 division, if the commissioner deems it of public interest or
17 advantage, he or she may certify a record to the proper prosecuting
18 official of the county or city in which the act complained of,
19 examined, or investigated occurred.

20 11432. (a) For any licensee, a disciplinary action taken by the
21 State of California, another state, any agency of the federal
22 government, or another country for any action substantially
23 related to the activity regulated under this law may be a ground for
24 disciplinary action by the commissioner. A certified copy of the
25 record of the disciplinary action taken against a licensee by the
26 State of California, another state, any agency of the federal
27 government, or another country shall be conclusive evidence of
28 the events related therein.

29 (b) Nothing in this section shall preclude the commissioner
30 from applying a specific statutory provision in this division
31 providing for discipline against a licensee as a result of
32 disciplinary action taken against a licensee by the State of
33 California, another state, an agency of the federal government, or
34 another country.

35 11433. (a) Any person who has been convicted of, or pleaded
36 nolo contendere to any crime specified in subdivision (b) within
37 the past 10 years or has been held liable in any civil action by final
38 judgment or any administrative judgment by any public agency
39 within the past seven years, of any of the provisions specified in
40 subdivision (b), shall not serve as an officer, director, partner,



1 shareholder controlling 10 percent or more of the ownership
2 interests, trustee, or employee of a state licensed real estate
3 appraiser. This subdivision shall not apply to any person whose
4 office, employment, ownership interest, or other participation in
5 the business of a state licensed real estate appraiser commenced
6 prior to January 1, 2003, or whose criminal conviction, plea, or
7 judgment occurred prior to January 1, 2003.

8 (b) Subdivision (a) applies to criminal convictions of, pleas of
9 nolo contendere to, or civil or administrative judgments entered
10 for offenses including the following:

11 (1) Offenses specified in Chapter 18 (commencing with
12 Section 3350) of Division 1 of the Financial Code.

13 (2) Offenses specified in Article 4 (commencing with Section
14 5300) of Chapter 1 of Division 2 of the Financial Code.

15 (3) Offenses specified in Article 8 (commencing with Section
16 14750) of Chapter 4 of Division 5 of the Financial Code.

17 (4) Offenses specified in Chapter 7 (commencing with Section
18 17700) of Division 6 of the Financial Code.

19 (5) Offenses specified in Chapter 6 (commencing with Section
20 18435) of Division 7 of the Financial Code.

21 (6) Offenses specified in provisions of the laws of the United
22 States added or amended by the federal Financial Institutions
23 Reform, Recovery and Enforcement Act of 1989 (Public Law
24 101-73), *excluding the provisions of the Uniform Standards of*
25 *Professional Appraisal Practice.*

26 (7) Offenses involving robbery, burglary, theft, embezzlement,
27 fraud, fraudulent conversion or misappropriation of property,
28 forgery, bookmaking, receiving stolen property, counterfeiting,
29 extortion, checks, credit cards, or computer violations specified in
30 Section 502 of the Penal Code.

31 For the purpose of this section, but not Section 11434, an offense
32 does not include a conviction for which the person has obtained a
33 certificate of rehabilitation from a court of competent jurisdiction
34 under Section 1203.4 or 4852.13 of the Penal Code or a similar
35 certificate of rehabilitation obtained in a foreign jurisdiction.

36 (c) On and after January 1, 2003, any officer, director, or other
37 person who seeks a controlling ownership interest of 10 percent or
38 more in the business of a state licensed real estate appraiser shall,
39 as a condition to obtaining that interest or participation, authorize
40 the commissioner to have access to that person's state summary



1 criminal history information, as defined in Section 11105 of the
2 Penal Code, for purposes of determining whether the person has
3 a prior conviction of, or pleaded nolo contendere to, a criminal
4 offense specified in subdivision (b).

5 (d) Any state summary criminal history information obtained
6 pursuant to this section shall be kept confidential and no recipient
7 shall disclose the contents other than for the purpose of acquisition
8 of an ownership interest in or other participation in the business of
9 a state licensed real estate appraiser.

10 (e) Any person who knowingly violates subdivision (a),
11 including, but not limited to, any state licensed real estate appraiser
12 who permits an ownership interest in or other participation in the
13 business of a state licensed real estate appraiser in violation of
14 subdivision (a) shall, upon conviction, be subject to punishment as
15 set forth in Section 11500.

16 (f) Nothing in this section shall be construed to permit the
17 reinstatement of any person barred by the commissioner pursuant
18 to Section 11435 nor to prohibit the commissioner from bringing
19 any action pursuant to Section 11435.

20 (g) If any provision of this section or the application of this
21 section to any person or circumstances is held invalid, that
22 invalidity shall not affect other provisions or applications of this
23 section that can be given effect without the invalid provision or
24 application, and to this end the provisions of this section are
25 severable.

26 (h) For purposes of this section, the term ~~‘employee’~~
27 “*employee*” means any individual who performs real estate
28 appraisal activity governed by this part.

29 11434. (a) The commissioner may, after appropriate notice
30 and opportunity for hearing, by order censure or suspend for a
31 period not exceeding 12 months, or bar from any position of
32 employment, management, or control any state licensed real estate
33 appraiser, or any other person, if the commissioner finds either of
34 the following:

35 (1) That the censure, suspension, or bar is in the public interest
36 and that the person has committed or caused a violation of this
37 division or rule or order of the commissioner, and the violation was
38 either known or should have been known by the person
39 committing or causing it, or the violation has caused material
40 damage to the state licensed real estate appraiser, or to the public.



1 (2) That the person has been convicted of, or pleaded nolo
2 contendere to any crime, or has been held liable in any civil action
3 by final judgment, or any administrative judgment by any public
4 agency, if that crime or civil or administrative judgment involved
5 any offense specified in subdivision (b) of Section 11433, *a*
6 *violation of the Uniform Standard of Professional Appraisal*
7 *Practice*, or any other offense reasonably related to the
8 qualifications, functions, or duties of a person engaged in the
9 business in accordance with the provisions of this division.

10 (b) Within 15 days from the date of a notice of intention to issue
11 an order pursuant to subdivision (a), the person may request a
12 hearing under the Administrative Procedure Act (Chapter 5
13 (commencing with Section 11500) of Part 1 of Division 3 of Title
14 2 of the Government Code). Upon receiving a request, the matter
15 shall be set for hearing to commence within 30 days after receipt
16 unless the person subject to this division consents to a later date.
17 If no hearing is requested within 15 days after the mailing or
18 service of the notice and none is ordered by the commissioner, the
19 failure to request a hearing shall constitute a waiver of the right to
20 a hearing.

21 (c) Upon receipt of a notice of intention to issue an order
22 pursuant to this section, the person who is the subject of the
23 proposed order is immediately prohibited from engaging in any
24 activities subject to licensure under the law.

25 (d) Persons suspended or barred under this section are
26 prohibited from participating in any business activity of a state
27 licensed real estate appraiser and from engaging in any business
28 activity on the premises where a state licensed real estate appraiser
29 is conducting its business. This subdivision shall not be construed
30 to prohibit suspended or barred persons from having their personal
31 transactions processed by a state licensed real estate appraiser.

32 (e) This section shall apply to any violation, conviction, plea,
33 or judgment after the enactment of this section.

34 (f) If any provision of this section or the application of this
35 section to any person or circumstances is held invalid, that
36 invalidity shall not affect other provisions or applications of this
37 section that can be given effect without the invalid provision or
38 application, and to this end the provisions of this section are
39 severable.



1 (g) For purposes of this section, the term “employee” means
2 any individual who performs real estate appraisal activity
3 governed by this part.

4 11435. Whenever, in the opinion of the commissioner, a
5 person is engaged, either actually or through subterfuge, in the
6 business of real estate appraisals without a license from the
7 commissioner, the commissioner may order that person to desist
8 and refrain. If, within 30 days after an order is served, a request for
9 a hearing is filed in writing and the hearing is not held within 60
10 days of the filing, the order is rescinded.

11 11436. If, after investigation, the commissioner has
12 reasonable grounds to believe that any licensee has violated its
13 articles of incorporation or any law or rule binding upon it, the
14 commissioner shall, by written order addressed to the licensee,
15 direct the discontinuance of the violation. The order shall be
16 effective immediately, but shall not become final except in
17 accordance with the provisions of Section 11438.

18 11437. If, after investigation, the commissioner has
19 reasonable grounds to believe that any licensee is conducting
20 business in an unsafe or injurious manner, the commissioner shall,
21 by written order addressed to the licensee, direct the
22 discontinuance of the unsafe or injurious practices. The order shall
23 be effective immediately, but shall not become final except in
24 accordance with the provisions of Section 11438.

25 11438. (a) No order issued pursuant to Section 11436 or
26 11437 may become final except after notice to the affected licensee
27 of the commissioner’s intention to make the order final and of the
28 reasons for the finding. The commissioner shall also notify the
29 licensee that upon receiving a request the matter will be set for
30 hearing to commence within 15 business days after receipt. The
31 licensee may consent to have the hearing commence at a later date.
32 If no hearing is requested within 30 days after the mailing or
33 service of the required notice, and none is ordered by the
34 commissioner, the order may become final without hearing and the
35 licensee shall immediately discontinue the practices named in the
36 order. If a hearing is requested or ordered, it shall be held in
37 accordance with the provisions of the Administrative Procedure
38 Act (Chapter 5 (commencing with Section 11500) of Part 1 of
39 Division 3 of Title 2 of the Government Code), and the
40 commissioner shall have all of the powers granted under that act.



1 If, upon the hearing, it appears to the commissioner that the
2 licensee is conducting business in an unsafe and injurious manner
3 or is violating its articles of incorporation or any law of this state,
4 or any rule binding upon it, the commissioner shall make the order
5 of discontinuance final and the licensee shall immediately
6 discontinue the practices named in the order.

7 (b) The licensee has 10 days after an order is made final to
8 commence an action to restrain enforcement of the order. If the
9 enforcement of the order is not enjoined within 10 days by the
10 court in which the action is brought, the licensee shall comply with
11 the order.

12 11439. (a) If, after investigation, the commissioner has
13 reasonable grounds to believe that any person has engaged or is
14 about to engage in any act or practice constituting a violation of
15 any provision of this part or any rule or order promulgated
16 pursuant to this part, the commissioner may; bring an action to
17 enjoin the acts or practices or to enforce compliance with this law
18 or any rule or order hereunder. The action shall be brought in the
19 name of the people of the State of California in the superior court.
20 Upon a proper showing, a permanent or preliminary injunction,
21 restraining order, or writ of mandate shall be granted. A receiver,
22 monitor, conservator, or other designated fiduciary or officer of
23 the court, which may include the commissioner, may be appointed
24 for the defendant or the defendant's assets. Any other ancillary
25 relief may be granted as appropriate. A receiver, monitor,
26 conservator, or other designated fiduciary or officer of the court
27 appointed by the superior court pursuant to this section may, with
28 the approval of the court, exercise any or all of the powers of the
29 defendant's officers, directors, partners, trustees, or persons who
30 exercise similar powers and perform similar duties. The powers
31 include the filing of a petition for bankruptcy. No action at law or
32 in equity may be maintained by any party against the
33 commissioner, or a receiver, monitor, conservator, or other
34 designated fiduciary or officer of the court, by reason of their
35 exercising these powers or performing these duties pursuant to the
36 order of, or with the approval of, the superior court.

37 (b) If the commissioner determines it is in the public interest,
38 the commissioner may include in any action authorized by
39 subdivision (a) a claim for ancillary relief. The ancillary relief may
40 include, but not be limited to, restitution or disgorgement or



1 damages on behalf of the persons injured by the act or practice
2 constituting the subject matter of the action. The court shall have
3 jurisdiction to award additional relief.

4 11440. The commissioner may immediately revoke the real
5 estate appraiser's license if the licensee fails to comply with any
6 order issued under Section 11434, 11436, 11437, or 11503. The
7 commissioner shall not revoke the license if, within 10 days from
8 the effective date of the revocation order, the licensee secures a
9 court order restraining the enforcement of the commissioner's
10 order.

11 11441. If any licensee does any of the following, the licensee
12 shall forfeit to the people of the state a sum of up to one hundred
13 dollars (\$100) for every day up to the 10th day:

14 (a) Fails to make any report required by law or by the
15 commissioner within 10 days from the day designated for the
16 making of the report, or within any extension of time granted by
17 the commissioner.

18 (b) Fails to include in a report any matter required by law or by
19 the commissioner. Thereafter, any failure shall constitute grounds
20 for the suspension or revocation of the license held by the state
21 licensed real estate appraiser.

22 11442. (a) The commissioner may, after notice and a
23 reasonable opportunity to be heard, suspend or revoke any license
24 if the commissioner finds any of the following:

25 (1) The licensee has violated any provision of this division or
26 any rule or order of the commissioner thereunder.

27 (2) Any fact or condition exists that, if it had existed at the time
28 of the original application for the license, reasonably would have
29 warranted the commissioner in refusing to issue the license
30 originally.

31 (b) The power of investigation and examination by the
32 commissioner is not terminated by the surrender, suspension, or
33 revocation of any license issued by him or her.

34 11443. Except in the case of an exempt person, whenever the
35 commissioner deems it to be necessary for the public interest, the
36 commissioner has continuous authority to exercise the powers set
37 forth in this division. These powers may be exercised whether or
38 not an application for a license has been filed with the
39 commissioner, any license has been issued, or if issued, has been
40 surrendered, suspended, or revoked.



1 11444. (a) In making an investigation or examination
2 authorized by this division, the commissioner may, for a
3 reasonable time not exceeding 30 days, control access to any
4 documents and records of the licensee pertaining to the business
5 of any state licensed real estate appraiser. The commissioner may
6 place a keeper in exclusive charge of the documents and records
7 in the place where they are usually kept. During the period of
8 control, no director, officer, partner, or employee shall remove or
9 attempt to remove any of the documents except pursuant to a court
10 order or with the consent of the commissioner. However, the
11 directors, officers, partners, and employees of the state licensed
12 real estate appraiser may examine the documents or records. The
13 licensee's employees shall be permitted to make entries in the
14 documents or records to reflect current transactions. Unless the
15 commissioner has reasonable grounds to believe the documents or
16 records of the licensee have been, or are at risk of being altered or
17 destroyed for purposes of concealing a violation of this part, the
18 licensee shall have access to the documents or records as necessary
19 to conduct its ordinary business affairs.

20 (b) For the purpose of any investigation, examination, or
21 proceeding under this division, the commissioner or any officer
22 designated by the commissioner may administer oaths and
23 affirmations, subpoena witnesses, compel their attendance, take
24 evidence, and require the production of any documents or records
25 that the commissioner deems relevant.

26 (c) In case of refusal to obey a subpoena issued to a director,
27 officer, partner, or employee of a licensee, the superior court may
28 issue an order requiring that person to appear before the
29 commissioner. When before the commissioner, the director,
30 officer, partner, or employee shall produce documentary evidence
31 or give evidence on the matter under investigation. Failure to obey
32 the order of the court may be punished by the court as contempt.

33 (d) No person is excused from testifying or from producing any
34 document or record before the commissioner, on the ground that
35 the testimony or evidence required by the commissioner may tend
36 to incriminate the person or subject him or her to a penalty or
37 forfeiture. However, no individual may be penalized for any
38 matter concerning which he or she is compelled to testify or
39 produce evidence, after validly claiming the privilege against
40 self-incrimination. However, individual testimony is not exempt



1 from prosecution and punishment for perjury or contempt
2 committed in testifying.

3 11445. The authority to make or conduct any examination or
4 investigation may be delegated by the commissioner to any
5 deputy, investigator, examiner, or auditor appointed for that
6 purpose. An individual appointed by the commissioner for this
7 purpose may administer oaths and subpoena witnesses, and take
8 their testimony. The appointment shall be made by an instrument
9 in writing signed by the commissioner. Upon any examination or
10 investigation, the instrument shall be produced by the appointed
11 individual at any time upon demand.

12 11446. All hearings provided for in this division shall be
13 conducted in accordance with the provisions of Chapter 5
14 (commencing with Section 11500) of Part 1 of Division 3 of Title
15 2 of the Government Code. The commissioner has all the powers
16 granted therein.

17 11447. Every order, decision, license, or other official act of
18 the commissioner is subject to review, in accordance with law.

19 11448. A licensee may not do any of the following:

20 ~~(a) Engage in any acts in violation of Section 17200 or 17500~~
21 ~~of the Business and Professions Code.~~

22 (a) Engage in any acts in violation of Section 17200.

23 (b) Knowingly misrepresent, circumvent, or conceal, through
24 subterfuge or device, any material aspect or information regarding
25 a transaction to which it is a party.

26 (c) Do an act, whether of the same or a different character than
27 specified in this section, that constitutes fraud or dishonest
28 dealings.

29 ~~SEC. 63.~~

30 SEC. 65. Chapter 11 (commencing with Section 11500) is
31 added to Part 3 of Division 4 of the Business and Professions Code,
32 to read:

33

34 CHAPTER 11. PROHIBITED PRACTICES AND PENALTIES

35

36 11500. Any person who willfully violates any provision of
37 this part, or any rule or order under this part, shall, upon
38 conviction, be subject to a fine of not more than ten thousand
39 dollars (\$10,000) or imprisonment in the state prison or in a county
40 jail for not more than one year, or to both that fine and



1 imprisonment. No person may be imprisoned for the violation of
2 any rule or order unless he or she had knowledge of the rule or
3 order. Conviction under this section shall not preclude the
4 commissioner from exercising the authority provided in Section
5 11435.

6 11501. (a) Any person who violates a provision of this part,
7 or any rule or order under this part, shall be liable for a civil penalty
8 not to exceed two thousand five hundred dollars (\$2,500) for each
9 violation. This penalty shall be assessed and recovered in a civil
10 action brought in the name of the people of the State of California
11 by the commissioner in any court of competent jurisdiction.

12 (b) As applied to the penalties for acts in violation of this
13 division, the remedies provided by this section and by other
14 sections of this division are not exclusive, and may be sought and
15 employed in any combination to enforce the provisions of this part.

16 11502. It is a violation of this part for any person to make any
17 untrue statement of a material fact in any document filed with the
18 commissioner under this division or rules adopted thereunder, or
19 to omit any material fact which is required to be stated in any
20 document.

21 11503. It is a violation for any person subject to this law or any
22 director, partner, shareholder controlling an ownership interest of
23 10 percent or more, trustee, officer, agent, or employee of any such
24 person to knowingly or recklessly make or cause to be made any
25 misstatement or omission of a material fact, pertaining to the real
26 estate appraisal business.

27 ~~11504. If an amount other than or in excess of the charges~~
28 ~~permitted by this part is willfully charged, contracted for, or~~
29 ~~received, in addition to any other penalties or remedies, the~~
30 ~~commissioner may order the licensee to refund to all persons~~
31 ~~charged the excess amount, the excess amount and the amount of~~
32 ~~the charge, both with interest at the rate of 10 percent per annum,~~
33 ~~calculated from the date the improper charge was imposed.~~

34 *11504. An agreement for appraisal services by a licensee is*
35 *null and void if it contains a provision for compensation that*
36 *violates Section 11323.*

37 11505. Any person who violates any provision of the federal
38 Real Estate Settlement Procedures Act, as amended (12 U.S.C.
39 Sec. 2601 et seq.), or any regulation promulgated thereunder,
40 violates this part.



1 11507. Any director, officer, partner, trustee, or employee of
2 a licensee, its holding company, or its affiliates who knowingly
3 makes or concurs in making or publishing any false entry in its
4 books or records, any written report, exhibit, or statement of its
5 affairs or pecuniary condition containing any material statement
6 which is false, or having the custody of its books, willfully refuses
7 or neglects to make any proper entry in the books as required by
8 law or to allow the books to be inspected by the commissioner or
9 his or her deputies or investigators, violates this division.

10 11508. Any director, officer, partner, trustee, or employee of
11 a licensee, its holding company, or its affiliates who makes a false
12 entry in any book or record of the business, or in connection with
13 any transaction of the business, with intent to deceive any officer,
14 director, or employee thereof, or any agent or examiner, employed
15 or lawfully appointed to examine into its condition or any of its
16 affairs or transactions, or to any public officer who has authority
17 to examine into its affairs or transactions, or who, with like intent,
18 omits to make a new entry of any matter particularly pertaining to
19 the business property condition, or transactions of the entity in any
20 document of the licensee, or who, with like intent, makes
21 unavailable any document of the licensee made, written, or kept,
22 or required to be made, written, or kept by him or her under his or
23 her direction, violates this division.

24 ~~SEC. 64.~~

25 *11509. Any officer, director, partner, trustee, or employee of*
26 *any entity who abstracts or misapplies any of the money, funds, or*
27 *property of a licensee, or misapplies its credit, or abstracts or*
28 *misapplies money, funds, trust obligations, or property deposited*
29 *with a licensee, violates this part. If a violation results in a criminal*
30 *conviction, the court shall, in addition to any other punishment*
31 *imposed, order the person to make full restitution to the licensee.*
32 *Nothing in this section shall be deemed or construed to repeal,*
33 *amend, or impair any existing provision of law prescribing a*
34 *punishment for such an offense.*

35 *11510. Nothing in this chapter shall be construed to authorize*
36 *a criminal prosecution for a violation of a civil statute*
37 *incorporated by reference into this part. Civil monetary penalties*
38 *and fines shall not be imposed under this part for a violation of*
39 *subdivision (b) of Section 11448 or Section 11505 if a licensee*
40 *demonstrates that it has paid a civil monetary penalty or fine for*



1 *the same act or transaction as a violation of Section 17200 or*
2 *17500 of the Business and Professions Code or provisions of the*
3 *Real Estate Settlement Procedures Act (12 U.S.C. Sec. 2601 et*
4 *seq.).*

5 *SEC. 66. Section 25604 of the Corporations Code is amended*
6 *to read:*

7 25604. The administration and enforcement of, and the
8 education of the public relative to, the laws and programs of the
9 Department of Corporations shall be supported from the State
10 Corporations Fund. *Funds appropriated from the State*
11 *Corporations Fund and made available for expenditure for any*
12 *law or program of the department may come from fees collected*
13 *under all subdivisions of Section 25608, except subdivisions (o) to*
14 *(r), inclusive, and subdivisions (a), (b), (c), and (d) of Section*
15 *25608.1.*

16 *SEC. 67. The California Research Bureau shall report to the*
17 *Legislature by January 1, 2005, on the feasibility of an annual*
18 *licensing and certification schedule with a single renewal date in*
19 *order to ensure a stable source of revenue each year for the support*
20 *of the Real Estate Appraisers' Licensing and Certification Law.*
21 *The annual licensing and certification schedule shall not increase*
22 *the current fee schedule paid by a real estate licensee or appraiser*
23 *trainee.*

24 *SEC. 68. (a) It is the intent of the Legislature that the*
25 *Department of Corporations establish the Real Estate Appraisal*
26 *Study Committee to study and discuss issues relating to the use of*
27 *appraisals in the areas of making loans and investments. The*
28 *committee shall be comprised of officials in the Department of*
29 *Corporations who are responsible for appraisals, mortgage*
30 *lending, and investments. Appropriate representatives from*
31 *appraisal, mortgage lending, and investment businesses shall be*
32 *invited to participate on the committee. The Department of*
33 *Corporations shall request that the Department of Real Estate and*
34 *the Department of Financial Institutions participate on the*
35 *committee. The participation of those two departments shall not be*
36 *a prerequisite to the deliberations of the committee. The*
37 *Department of Corporations may also invite other individuals and*
38 *entities having expertise useful to the committee to participate on*
39 *the committee. The Department of Corporations may alter the*



1 *composition of the committee as appropriate for the issues that will*
2 *be studied at each meeting of the committee.*

3 *(b) It is the further intent of the Legislature in transferring the*
4 *administration and enforcement of the Real Estate Appraisers'*
5 *Licensing and Certification Law to the Department of*
6 *Corporations for the purposes of economy and efficiency, that the*
7 *Department of Corporations continue the mission of the Office of*
8 *Real Estate Appraisers. In performing this mission, the*
9 *Legislature encourages the Department of Corporations to refer*
10 *appropriate violations of the Real Estate Appraisers' Licensing*
11 *and Certification Law to the district attorney of the county in which*
12 *the violation occurred.*

13 *SEC. 69. This act shall become effective on January 1, 2003,*
14 *and shall become operative on the date that the Governor, by*
15 *executive order, establishes the Office of Real Estate Appraisers*
16 *within the Department of Corporations, or on July 1, 2004,*
17 *whichever occurs first.*

18 *SEC. 70. Any section of any act enacted by the Legislature*
19 *during the 2002 calendar year of the 2001–02 Regular Session that*
20 *takes effect on or before January 1, 2003, and that amends, amends*
21 *and renumbers, adds, repeals and adds, or repeals a section that*
22 *is amended, amended and renumbered, repealed and added, or*
23 *repealed by this act, shall prevail over this act, whether that act is*
24 *enacted prior to, or subsequent to, the enactment of this act.*

25 *SEC. 71. No reimbursement is required by this act pursuant*
26 *to Section 6 of Article XIII B of the California Constitution*
27 *because the only costs that may be incurred by a local agency or*
28 *school district will be incurred because this act creates a new crime*
29 *or infraction, eliminates a crime or infraction, or changes the*
30 *penalty for a crime or infraction, within the meaning of Section*
31 *17556 of the Government Code, or changes the definition of a*
32 *crime within the meaning of Section 6 of Article XIII B of the*
33 *California Constitution.*

