

## Senate Bill No. 998

### CHAPTER 101

An act to amend Sections 1502, 2117, 6210, 8210, 25404, 28711, 31119, and 31155 of, and to add Sections 25530.1, 28716, 29105, 29538, 31204, and 31400.1 to, the Corporations Code, and to amend Sections 22050, 22105, 22109, 22112, 50123, and 50205 of, and to add Sections 12332, 12404, 17703, 22169, 22170, 23011.5, 23015, 30218, 30609, and 50512 to, the Financial Code, relating to business.

[Approved by Governor July 20, 2007. Filed with  
Secretary of State July 20, 2007.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 998, Cox. Commissioner of Corporations: business regulation.

(1) Existing law requires domestic corporations, foreign corporations, nonprofit public benefit corporations, and nonprofit mutual benefit corporations to file statements annually with the Secretary of State containing specified information including the street address of its principal executive office.

This bill would require those corporations to also include the mailing address of the corporation in the annual statements in certain circumstances.

(2) Existing law provides for the regulation, by the Commissioner of Corporations, of issuers of securities, franchises, persons engaged in the business of making deferred deposit transactions, finance lenders, and check sellers, bill payers, and proraters. A willful violation of the laws regulating these individuals is a crime. Existing law also provides for the regulation, by the Commissioner of Corporations, of securities depositories.

This bill would authorize the Commissioner of Corporations, with respect to those individuals, to issue an order censuring, suspending, or barring from any position of employment, management, or control, specified licensees or other persons, and prohibiting licensees or persons from participating in the business, as specified, for prescribed cause.

Under existing law, all applicants, except California corporations, applying for qualification of the sale of securities or registration of an offer to sell franchises are required to file with the commissioner a specified form appointing the commissioner as agent for service of process, as specified.

This bill would extend that exception to California limited partnerships and California limited liability companies.

(3) Existing law provides for the regulation, by the Commissioner of Corporations, of issuers of securities, agents, broker-dealers, investment adviser representatives, investment advisers, persons engaged in the business of commodities, franchises, check sellers, bill payers and proraters, escrow agents, finance lenders, persons engaged in the business of making deferred

deposit transactions, and mortgage lenders. A willful violation of the laws regulating these individuals is a crime. Existing law also provides for the regulation, by the Commissioner of Corporations, of capital access companies, bucket shops, and securities depositories.

Existing law makes it unlawful to make any untrue statement of a material fact in, among other things, an application filed with the commissioner.

This bill would make it unlawful to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with specified intent. The bill would also make it unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with specified intent. Because a willful violation of those specified provisions would be a crime, the bill would impose a state-mandated local program.

(4) Existing law makes it unlawful to sell any franchise subject to registration without first providing the prospective franchisee with a copy of, among other things, the offering circular, at least 10 business days prior to the execution of any binding franchise or prior to the receipt of any consideration, as specified.

This bill would instead require the offering circular to be provided to the prospective franchisee at least 14 days prior to the execution of any binding franchise or prior to the receipt of any consideration, as specified.

(5) Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders, as defined, by the commissioner and exempts specified entities from its provisions. Existing law requires the commissioner to investigate an applicant for licensure and, in the case of an applicant that is a corporation, trust, or association, to investigate its principal officers, directors, and certain other persons. Existing law authorizes the commissioner to deny an application for licensure under specified conditions. Existing law requires licensees to maintain a specified surety bond and to file a copy of that bond with the commissioner.

This bill would exempt a person from the California Finance Lenders Law if that person is doing business under the laws of any state relating to, among other things, banks, credit unions, and small business investment companies. The bill would require the commissioner, in investigating applications for licensure submitted by a corporation, trust, limited liability company, or association, to additionally investigate the applicant and its managing members. The bill would also authorize the commissioner to deny an application for licensure if the applicant itself has, within the last 10 years, been convicted or pled nolo contendere to a crime or committed specified acts involving dishonesty, fraud, or deceit. The bill would instead require the licensee to file an original surety bond with the commissioner.

(6) Existing law, the California Residential Mortgage Lending Act, provides for the licensing and regulation by the commissioner of persons engaged in the business of making residential mortgage loans or servicing those loans. The California Residential Mortgage Lending Act requires a licensee that ceases to engage in activity regulated by the act, and that no longer desire to be licensed, to inform the commissioner in writing, surrender

the license, and file other specified information with the commissioner, including a plan for the withdrawal from regulated business that includes a closing audit performed by an independent certified public accountant. Existing law requires licensees to maintain a specified surety bond and to file a copy of that bond with the commissioner.

This bill would instead require the plan for withdrawal to include either the closing audit or a review or other procedures prescribed by rule or order of the commissioner. The bill would also instead require the licensee to file an original surety bond with the commissioner.

(7) 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.

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

SECTION 1. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall file, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing all of the following:

(1) The names and complete business or residence addresses of its incumbent directors.

(2) The number of vacancies on the board, if any.

(3) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.

(4) The street address of its principal executive office.

(5) The mailing address of the corporation, if different from the street address of its principal executive office.

(6) If the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any.

(7) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth that person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) If there has been no change in the information in the last filed statement of the corporation on file in the Secretary of State's office, the corporation may, in lieu of filing the statement required by subdivisions (a) and (b), advise the Secretary of State, on a form prescribed by the Secretary

of State, that no changes in the required information have occurred during the applicable filing period.

(d) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a notice for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be mailed to the last address of the corporation according to the records of the Secretary of State. The failure of the corporation to receive the notice is not an excuse for failure to comply with this section.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(f) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(g) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

(h) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in this statement by means of an online database.

(i) In addition to any other fees required, a corporation shall pay a five-dollar (\$5) disclosure fee when filing the statement required by subdivision (a). One-half of the fee shall be utilized to further the provisions of this section, including the development and maintenance of the online database required by subdivision (h), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 1502.5.

(j) A corporation shall certify that the information it provides pursuant to subdivisions (a) and (b) is true and correct. No claim may be made against the state for inaccurate information contained in the statements.

SEC. 2. Section 2117 of the Corporations Code is amended to read:

2117. (a) Every foreign corporation (other than a foreign association) qualified to transact intrastate business shall file, annually during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing the following:

(1) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.

(2) The street address of its principal executive office.

(3) The mailing address of the corporation, if different from the street address of its principal executive office.

(4) The street address of its principal business office in this state, if any.

(5) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as the agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in the statement by means of an online database.

(d) In addition to any other fees required, a foreign corporation shall pay a five-dollar (\$5) disclosure fee upon filing the statement required by subdivision (a). One-half of the fee shall be utilized to further the provisions of this section, including the development and maintenance of the online database required by subdivision (d), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 1502.5.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation shall file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the filing pursuant to Section 2105.

(f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to statements filed pursuant to this section, except that "articles" shall mean the filing pursuant to Section 2105, and "corporation" shall mean a foreign corporation.

SEC. 3. Section 6210 of the Corporations Code is amended to read:

6210. (a) Every corporation shall, within 90 days after the filing of its original articles and biennially thereafter during the applicable filing period, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer; (2) the street address of its principal office in this state, if any; and (3) the mailing address of the corporation, if different from the street address of its principal executive office or if the corporation has no principal office address in this state.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation that has complied with Section 1505 and whose capacity to act

as an agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a notice for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the notice nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 4. Section 8210 of the Corporations Code is amended to read:

8210. (a) Every corporation shall, within 90 days after the filing of its original articles and biennially thereafter during the applicable filing period, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer; (2) the street address of its principal office in this state, if any; (3) the mailing address of the corporation, if different from the street address of its principal executive office or if the corporation has no principal office address in this state.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a notice for compliance with this section to

each corporation approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the notice nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 5. Section 25404 of the Corporations Code is amended to read:

25404. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 6. Section 25530.1 is added to the Corporations Code, to read:

25530.1. In any proceeding under Section 25530, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated Section 25401 from acting as an officer or director of any issuer that has securities qualified pursuant to Section 25110, or that has securities or a transaction exempt from qualification pursuant to Section 25100, 25102, or 25103, if the person's conduct demonstrates unfitness to serve as an officer or director of the issuer.

SEC. 7. Section 28711 of the Corporations Code is amended to read:

28711. (a) If the commissioner finds that any of the factors set forth in Section 28710 is true with respect to any licensee and that it is necessary for the protection of the public interest that the commissioner immediately suspend or revoke the license of the licensee, the commissioner may issue an order suspending or revoking the license of the licensee.

(b) Within 30 days after an order is issued pursuant to subdivision (a), any licensee to whom the order is directed may file with the commissioner a request for a hearing on the order. If the commissioner fails to commence a hearing within 15 business days after the request is filed (or within any

longer period to which the licensee consents), the order shall be deemed rescinded. Upon the completion of the hearing, the commissioner shall affirm, modify, or rescind the order.

SEC. 8. Section 28716 is added to the Corporations Code, to read:

28716. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 9. Section 29105 is added to the Corporations Code, to read:

29105. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 10. Section 29538 is added to the Corporations Code, to read:

29538. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 11. Section 31119 of the Corporations Code is amended to read:

31119. (a) It is unlawful to sell any franchise in this state that is subject to registration under this law without first providing to the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a copy of the offering circular, together with a copy of all proposed agreements relating to the sale of the franchise.

(b) Nothing in this division shall be construed to prevent a franchisor from providing copies of the offering circular documents to prospective franchisees through electronic means pursuant to any requirements or conditions that may be imposed by rule or order of the commissioner.

SEC. 12. Section 31155 of the Corporations Code is amended to read:

31155. Every applicant for registration of an offer to sell franchises under this law, by other than a California corporation, California limited partnership, or California limited liability company, shall file with the commissioner, in such form as he or she by rule prescribed, an irrevocable

consent appointing the commissioner or his or her successor in office to be his or her attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against him or her or his or her successor, executor or administrator, which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration under this law need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (a) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the commissioner, and (b) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

SEC. 13. Section 31204 is added to the Corporations Code, to read:

31204. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 14. Section 31400.1 is added to the Corporations Code, to read:

31400.1. In any proceeding under Section 31400, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated Section 31200, 31201, or 31202 from acting as an officer or director of any franchisor if the person's conduct demonstrates unfitness to serve as an officer or director of the franchisor.

SEC. 15. Section 12332 is added to the Financial Code, to read:

12332. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 16. Section 12404 is added to the Financial Code, to read:

12404. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any licensee, any nonprofit community service organization subject to Section 12104, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the licensee, nonprofit community service organization, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure or exempt from licensure under Section 12104 of the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensee or a person exempt from licensure under Section 12104 and from engaging in any business activity on the premises where a licensee or a person exempt from licensure under Section 12104 is conducting business.

SEC. 17. Section 17703 is added to the Financial Code, to read:

17703. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 18. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of any state or of the United States relating to banks, trust companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a check casher who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit, and shall not apply to a person holding a valid license issued pursuant to Section 23005 of the Financial Code when acting under the authority of that license.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This division does not apply to a broker-dealer acting pursuant to a certificate then in effect and issued pursuant to Section 25211 of the Corporations Code.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

(f) This division does not apply to any public corporation as defined in Section 67510 of the Government Code, any public entity other than the state as defined in Section 811.2 of the Government Code, or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal and state laws and regulations.

(g) This section shall become operative December 31, 2004.

SEC. 19. Section 22105 of the Financial Code is amended to read:

22105. Upon the filing of an application pursuant to Section 22101 and the payment of the fees, the commissioner shall investigate the applicant and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or any person responsible for the conduct of the applicant's lending activities in this state, if the applicant is a partnership. If the applicant is a corporation, trust, limited liability company, or association, including an unincorporated organization, the commissioner shall investigate the applicant, its principal officers, directors, managing members, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities or any person responsible for the conduct of the applicant's lending activities in this state. Upon the filing of an application pursuant to Section 22102 and the payment of the fees, the commissioner shall investigate the person responsible for the lending activity of the licensee at the new location described in the application. The investigation may be limited to information that was not included in prior applications filed pursuant to this division. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 22109, the commissioner shall issue and deliver a license to the applicant.

For the purposes of this section, "principal officers" shall mean president, chief executive officer, treasurer, and chief financial officer, as may be applicable, and any other officer with direct responsibility for the conduct of the applicant's lending activities within the state.

SEC. 20. Section 22109 of the Financial Code is amended to read:

22109. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall, within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 21. Section 22112 of the Financial Code is amended to read:

22112. (a) A licensee shall maintain a surety bond in accordance with this subdivision in the amount of twenty-five thousand dollars (\$25,000). The bond shall be payable to the commissioner and issued by an insurer authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner within 10 days of execution. For licensees with multiple licensed locations, only one surety bond is required. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division.

(b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon recovery of any action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.

SEC. 22. Section 22169 is added to the Financial Code, to read:

22169. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management,

or control any finance lender, broker, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the finance lender, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

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

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a finance lender and from engaging in any business activity on the premises where a finance lender is conducting business.

SEC. 23. Section 22170 is added to the Financial Code, to read:

22170. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 24. Section 23011.5 is added to the Financial Code, to read:

23011.5. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any deferred deposit originator, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the deferred deposit originator, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

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

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a deferred deposit originator and from engaging in any business activity on the premises where a deferred deposit originator is conducting business.

SEC. 25. Section 23015 is added to the Financial Code, to read:

23015. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 26. Section 30218 is added to the Financial Code, to read:

30218. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 27. Section 30609 is added to the Financial Code, to read:

30609. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any person who operates a securities depository, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the securities depository, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

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

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a securities depository and from engaging in any business activity on the premises where a securities depository is conducting business.

SEC. 28. Section 50123 of the Financial Code is amended to read:

50123. (a) A license shall remain in effect until suspended, surrendered, or revoked.

(b) A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall inform the commissioner in writing and, at that time, surrender the license and all other indicia of licensure to the commissioner. The licensee shall file a plan for the withdrawal from regulated business, and the plan shall include a timetable for the disposition of the business. The plan shall also include a closing audit, review, or other agreed upon procedures performed by an independent certified public accountant prescribed by rule or order of the commissioner. Upon receipt of the written notice and plan, the commissioner shall review

the plan and, if satisfactory to the commissioner, shall accept the surrender of the license. A license is not surrendered until its tender is accepted in writing by the commissioner after a review, and a finding has been made on the licensee's plan required to be filed by this section, and a determination has been made that there is no violation of this law.

(c) A licensee may not surrender its license under this division and, under the authority of a real estate license, subsequently engage in residential mortgage lending or servicing activities that are subject to this division, unless the licensee has been licensed under this division for a period of five years or more.

SEC. 29. Section 50205 of the Financial Code is amended to read:

50205. (a) A licensee shall maintain a surety bond in accordance with this subdivision. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division. The bond shall be payable when the licensee fails to comply with a provision of this division and shall be in the amount of fifty thousand dollars (\$50,000), and may be increased by order of the commissioner to one hundred thousand dollars (\$100,000) upon a determination by the commissioner that the licensee is not in compliance with any provision of this chapter or any rule or order adopted or issued by the commissioner to implement or enforce provisions of this chapter. The bond shall be payable to the commissioner and issued by an insurance company authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner within 10 days of its execution.

(b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon the recovery of an action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.

SEC. 30. Section 50512 is added to the Financial Code, to read:

50512. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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