

AMENDED IN ASSEMBLY FEBRUARY 10, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 33

Introduced by Assembly Member Nava

December 1, 2008

An act relating to financial ~~transactions~~ *services*.

LEGISLATIVE COUNSEL'S DIGEST

AB 33, as amended, Nava. Financial ~~transactions~~ *services*.

Existing law establishes the Department of Financial Institutions, the Department of Corporations, the Department of Real Estate, and the Office of Real Estate Appraisers in the Business, Transportation and Housing Agency.

Existing law provides for the licensing and regulation of, *among others*, banks, credit unions, and other financial institutions by the Commissioner of Financial Institutions. Existing law provides for the licensing and regulation of, *among others*, residential mortgage lenders and finance lenders by the Commissioner of Corporations. Existing law provides for the licensing and regulation of, *among others*, real estate brokers by the Real Estate Commissioner. *Existing law provides for the licensure and regulation of real estate appraisers by the Director of the Office of Real Estate Appraisers.*

~~This bill would require the Secretary of Business, Transportation and Housing, in conjunction with the Commissioner of Financial Institutions, the Commissioner of Corporations, and the Real Estate Commissioner, to develop a plan to consolidate the operations and licensing frameworks of the 3 departments into a single department by January 1, 2015. The plan would be submitted to the Legislature by January 1, 2012 declare the intent of the Legislature to do the following: (1) abolish the~~

Department of Corporations (DOC), the Department of Financial Institutions (DFI), the Department of Real Estate (DRE), and the Office of Real Estate Appraisers (OREA), (2) create a new Department of Financial Services (DFS), (3) designate the chief officer of DFS as the Commissioner of Financial Services, (4) arrange for the consolidation and transfer of various operations and procedures of those departments and that office to DFS, and (5) require DFS to regulate those persons, entities, and transactions subject to regulation by, or subject to the jurisdiction of, DOC, DFI, DRE, and OREA. The bill would make legislative findings and declarations in that regard.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The regulation and oversight of financial services in
- 4 California are divided among three regulators, the Department of
- 5 Financial Institutions, the Department of Real Estate, and the
- 6 Department of Corporations.
- 7 (b) California is one of only a few states that separates the
- 8 regulation of financial services among different licensing agencies.
- 9 (c) This division of oversight is most apparent in the regulation
- 10 of home mortgage lending that is split among several licensing
- 11 schemes, including the California Finance Lenders Law, the
- 12 California Residential Mortgage Lending Act, the Real Estate Law,
- 13 and laws governing the operation of state and federally chartered
- 14 banks or credit unions.
- 15 (d) This partition of regulation dilutes consumer protection and
- 16 creates confusion and unnecessary administrative difficulties for
- 17 financial services entities.
- 18 (e) The current regulatory system creates licensing arbitrage,
- 19 with entities seeking out licenses from various regulators in order
- 20 to obtain an advantage.
- 21 ~~SEC. 2. The Secretary of Business, Transportation and Housing,~~
- 22 ~~in consultation with the Commissioner of Financial Institutions,~~
- 23 ~~the Real Estate Commissioner, and the Commissioner of~~
- 24 ~~Corporations, shall design and develop a consolidation plan to be~~

1 ~~submitted to the Legislature on or before January 1, 2012, that~~
2 ~~does both of the following:~~

3 ~~(a) Consolidates the operations and licensing frameworks of~~
4 ~~the Department of Financial Institutions, the Department of Real~~
5 ~~Estate, and the Department of Corporations into a single~~
6 ~~department.~~

7 ~~(b) Identifies necessary statutory changes required to achieve~~
8 ~~that consolidation by January 1, 2015.~~

9 *SEC. 2. It is the intent of the Legislature to do all of the*
10 *following:*

11 *(a) Abolish the Department of Corporations (DOC), the*
12 *Department of Financial Institutions (DFI), the Department of*
13 *Real Estate (DRE), and the Office of Real Estate Appraisers*
14 *(OREA) in the Business, Transportation and Housing Agency.*

15 *(b) Create a new Department of Financial Services (DFS) in*
16 *the Business, Transportation and Housing Agency.*

17 *(c) Designate the chief officer of DFS as the Commissioner of*
18 *Financial Services.*

19 *(d) Cause DFS and the Commissioner of Financial Services to*
20 *succeed to and be vested with all the duties, powers, purposes,*
21 *responsibilities, and jurisdiction currently vested in DOC, DFI,*
22 *DRE, and OREA, and the Commissioner of Corporations, the*
23 *Commissioner of Financial Institutions, the Commissioner of Real*
24 *Estate, and the Director of Real Estate Appraisers.*

25 *(e) Authorize the Controller to transfer funds from DOC, DFI,*
26 *DRE, and OREA to DFS.*

27 *(f) Consolidate the operations and licensing frameworks of*
28 *DOC, DFI, DRE, and OREA and transfer them to DFS and,*
29 *specifically, require DFS to regulate the following persons, entities,*
30 *and transactions currently subject to regulation and oversight by,*
31 *or subject to the jurisdiction of, DOC, DFI, DRE, and OREA:*

32 *(1) Broker-dealers and the agents or registered representatives*
33 *of broker-dealers (Chapter 2 (commencing with Section 25210)*
34 *of Part 3 of Division 1 of Title 4 of the Corporations Code).*

35 *(2) Investment advisers and investment adviser representatives*
36 *or associated persons (Chapter 3 (commencing with Section 25230)*
37 *of Part 3 of Division 1 of Title 4 of the Corporations Code).*

38 *(3) Capital access companies (Division 3 (commencing with*
39 *Section 28000) of Title 4 of the Corporations Code).*

- 1 (4) *The Franchise Investment Law (Division 5 (commencing*
- 2 *with Section 31000) of Title 4 of the Corporations Code).*
- 3 (5) *Banks and trust companies (Division 1 (commencing with*
- 4 *Section 99) of the Financial Code).*
- 5 (6) *Foreign banks (Chapter 13.5 (commencing with Section*
- 6 *1700) of Division 1 of the Financial Code).*
- 7 (7) *Money transmitters (Chapter 14 (commencing with Section*
- 8 *1800) of Division 1 of the Financial Code).*
- 9 (8) *Issuers of travelers checks (Chapter 14A (commencing with*
- 10 *Section 1851) of Division 1 of the Financial Code).*
- 11 (9) *Bank holding companies (Chapter 21 (commencing with*
- 12 *Section 3700) of Division 1 of the Financial Code).*
- 13 (10) *Checksellers, billpayers, and proraters (Division 3*
- 14 *(commencing with Section 12000) of the Financial Code).*
- 15 (11) *Credit unions (Division 5 (commencing with Section 14000)*
- 16 *of the Financial Code).*
- 17 (12) *Escrow agents (Division 6 (commencing with Section*
- 18 *17000) of the Financial Code).*
- 19 (13) *Industrial loan companies (Division 7 (commencing with*
- 20 *Section 18000) of the Financial Code).*
- 21 (14) *The Finance Lenders Law (Division 9 (commencing with*
- 22 *Section 22000) of the Financial Code).*
- 23 (15) *Deferred deposit originators (Division 10 (commencing*
- 24 *with Section 23000) of the Financial Code).*
- 25 (16) *Securities depositories (Division 14 (commencing with*
- 26 *Section 30000) of the Financial Code).*
- 27 (17) *Business and industrial development corporations (Division*
- 28 *15 (commencing with Section 31000) of the Financial Code).*
- 29 (18) *Sellers of payment instruments (Division 16 (commencing*
- 30 *with Section 33000) of the Financial Code).*
- 31 (19) *The California Residential Mortgage Lending Act (Division*
- 32 *20 (commencing with Section 50000) of the Financial Code).*
- 33 (20) *The Real Estate Law (Part 1 (commencing with Section*
- 34 *10000) of Division 4 of the Business and Professions Code).*
- 35 (21) *The Subdivided Lands Law (Chapter 1 (commencing with*
- 36 *Section 11000) of Part 2 of Division 4 of the Business and*
- 37 *Professions Code).*
- 38 (22) *The Vacation Ownership and Time-Share Act of 2004*
- 39 *(Chapter 2 (commencing with Section 11210) of Part 2 of Division*
- 40 *4 of the Business and Professions Code).*

- 1 (23) *The Real Estate Appraisers' Licensing and Certification*
- 2 *Law (Part 3 (commencing with Section 11302) of Division 4 of*
- 3 *the Business and Professions Code).*
- 4 (24) *Any other persons, entities, or transactions subject to*
- 5 *regulation and oversight by, or subject to the jurisdiction of, DOC,*
- 6 *DFI, DRE, or OREA.*

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