

**Introduced by Committee on Banking and Financial Institutions
(Senators Vargas (Chair), Blakeslee, Evans, Kehoe, Liu, Padilla,
and Walters)**

February 18, 2011

An act to amend the heading of Chapter 1 (commencing with Section 99) of Division 1 of, and to amend the heading of Division 1 (commencing with Section 99) of, and to amend and renumber Sections 100.5, 102, 103, 105, 105.2, 105.5, 105.7, 106, 107, 109, 110, 111, 112, 113, 115, 119, 120, 121, 122, 123, 124, 125, 126, 126.5, 126.7, 127, 128, 129, 130, 131, 132, 134, 134.5, 135, 137, 139, 139.2, 139.3, 139.4, 139.5, 139.7, 139.9, 139.95, 140, 140.3, 140.5, 142, 142.5, 143, 144, 145, 146, 146.3, 146.7, 148, 148.5, 149.3, 150, 151, 180, 181, 182, 184, 185, 200, 201, 210, 210.5, 211, 212, 213, 214, 215, 215.5, 216, 216.3, 217, 218, 219, 220, 221, 222, 223, 230, 230.5, 231, 232, 233, 234, 235, 236, 250, 250.5, 251, 252, 253, 255, 258, 259, 260, 261, 262, 263, 265, 270, 271, 271.5, 272, 273, 273.5, 274, 275, 276, 277, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 292.5, 293, 295, 295.1, 295.2, 295.3, 295.4, 298, 298.1, 299, 300, 300.1, 300.2, 300.3, 300.4, 301, 301.1, 302, 302.1, 302.2, 302.3, 305, 305.1, 305.2, 305.3, 305.4, 305.5, 305.6, 305.7, 305.8, 305.9, 310, 310.1, 310.2, 310.3, 310.4, 315, 315.1, 315.2, 315.3, 315.4, 315.5, 315.6, 315.7, 315.8, 315.9, 315.10, 315.11, 315.12, 320, 320.1, 320.2, 320.3, 320.4, 320.5, 320.6, 320.7, 320.8, 320.9, 320.10, 320.11, 320.12, 320.13, 320.14, 320.15, 320.16, 320.17, 320.18, 320.19, 320.20, 320.21, 320.22, 325, 325.1, 325.2, 330, 335, 335.1, 350, 351, 352, 353, 354, 355, 356, 357, 360, 360.5, 361, 362, 363, 364, 365, 399, 400, 401, 402, 403, 404, 405, 406, 407, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 550, 551, 600, 600.3, 600.4, 600.6, 600.8, 600.10, 600.12, 602, 620, 621, and 622 of, to add the headings of Article 1 (commencing with Section 300), Article 2 (commencing with Section 320), Article 3

(commencing with Section 350), Article 4 (commencing with Section 370), Article 5 (commencing with Section 400), and Article 6 (commencing with Section 405) to, Chapter 3 of Division 1 of, to add the headings of Article 1 (commencing with Section 600) and Article 2 (commencing with Section 620) to, Chapter 6 of Division 1 of, to add the headings of Chapter 2 (commencing with Section 250), Chapter 3 (commencing with Section 300), Chapter 4 (commencing with Section 450), Chapter 5 (commencing with Section 550), and Chapter 6 (commencing with Section 600) to, Division 1 of, to repeal the headings of Article 1 (commencing with Section 200), Article 2 (commencing with Section 210), Article 3 (commencing with Section 230), Article 4 (commencing with Section 250), Article 4.5 (commencing with Section 265), Article 5 (commencing with Section 270), Article 6 (commencing with Section 280), Article 7 (commencing with Section 295), Article 8 (commencing with Section 305), and Article 9 (commencing with Section 335) of, Chapter 2 of, to repeal the headings of Article 1 (commencing with Section 350), Article 2 (commencing with Section 360), and Article 4 (commencing with Section 399) of, Chapter 3 of, to repeal the headings of Article 1 (commencing with Section 600) and Article 2 (commencing with Section 620) of, Chapter 5 of, and to repeal the headings of Chapter 1.5 (commencing with Section 180), Chapter 2 (commencing with Section 200), Chapter 3 (commencing with Section 350), Chapter 4 (commencing with Section 500), Chapter 4.5 (commencing with Section 550), and Chapter 5 (commencing with Section 600) of, Division 1 of, the Financial Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

SB 664, as introduced, Committee on Banking and Financial Institutions. Financial institutions.

Existing law establishes the Department of Financial Institutions in the Business, Transportation and Housing Agency and provides that the department is in charge of the execution of specified laws relating to various financial institutions and financial services.

This bill would amend and renumber various provisions of the Financial Code applicable to financial institutions and financial services regulated by the department and would make other conforming changes.

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

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

1 SECTION 1. The heading of Division 1 (commencing with
2 Section 99) of the Financial Code is amended to read:

3

4 DIVISION 1. ~~BANKS~~ *FINANCIAL INSTITUTIONS*

5

6 SEC. 2. The heading of Chapter 1 (commencing with Section
7 99) of Division 1 of the Financial Code is amended to read:

8

9 CHAPTER 1. ~~SCOPE AND DEFINITIONS~~ *DEFINITIONS*

10

11 SEC. 3. Section 100.5 of the Financial Code is amended and
12 renumbered to read:

13 ~~100.5.~~

14 *101.* If and to the extent that any provision of this division is
15 preempted by federal law, the provision does not apply and shall
16 not be enforced.

17 SEC. 4. Section 102 of the Financial Code is amended and
18 renumbered to read:

19 ~~102.~~

20 *103.* The word “bank” as used in this division means any
21 incorporated banking institution that shall have been incorporated
22 to engage in commercial banking business, industrial banking, or
23 trust business.

24 SEC. 5. Section 103 of the Financial Code is amended and
25 renumbered to read:

26 ~~103.~~

27 *105.* Banks are divided into the following classes:

28 (a) Commercial banks.

29 (b) Industrial banks.

30 (c) Trust companies.

31 SEC. 6. Section 105 of the Financial Code is amended and
32 renumbered to read:

33 ~~105.~~

34 *107.* “Commercial bank” means a corporation organized for
35 the purpose of engaging in the commercial banking business.

36 SEC. 7. Section 105.2 of the Financial Code is amended and
37 renumbered to read:

1 ~~105.2.~~

2 109. “Commercial banking business” includes, but is not
3 limited to, the business of soliciting, receiving, or accepting of
4 money or its equivalent on deposit as a regular business whether
5 the deposit is made subject to check or is evidenced by a certificate
6 of deposit, a passbook, a note, a receipt, or other writing, provided
7 that nothing herein shall apply to or include money or its equivalent
8 left in escrow, or left with an agent pending investment in real
9 estate or securities for, or on account of, his or her principal. In
10 addition, “commercial banking business” means to lend money
11 on the security of real or personal property or without security; to
12 discount or deal in bills, notes, or other commercial paper; to buy
13 and sell for the account of customers, and, if eligible for
14 investment, for its own account, securities, gold and silver bullion,
15 foreign coins, and bills of exchange; and generally to transact a
16 commercial banking business.

17 SEC. 8. Section 105.5 of the Financial Code is amended and
18 renumbered to read:

19 ~~105.5.~~

20 111. “Industrial bank” means a corporation organized for the
21 purpose of engaging in the industrial banking business.

22 SEC. 9. Section 105.7 of the Financial Code is amended and
23 renumbered to read:

24 ~~105.7.~~

25 113. “Industrial banking business” includes the making of loans
26 and acceptance of deposits, including deposits evidenced by
27 investment or thrift certificates, but excluding demand deposits.

28 SEC. 10. Section 106 of the Financial Code is amended and
29 renumbered to read:

30 ~~106.~~

31 115. “Trust business” means the business of acting as executor,
32 administrator, guardian or conservator of estates, assignee, receiver,
33 depository or trustee under the appointment of any court, or by
34 authority of any law of this or any other state or of the United
35 States, or as trustee for any purpose permitted by law.

36 SEC. 11. Section 107 of the Financial Code is amended and
37 renumbered to read:

1 ~~107.~~

2 117. “Trust company” means a corporation, industrial bank,
3 or a commercial bank that is authorized to engage in the trust
4 business.

5 SEC. 12. Section 109 of the Financial Code is amended and
6 renumbered to read:

7 ~~109.~~

8 119. “Bank” or “banks” includes commercial banks, industrial
9 banks, and trust companies unless the context otherwise requires.
10 However, “bank” does not include a savings association or a credit
11 union.

12 SEC. 13. Section 110 of the Financial Code is amended and
13 renumbered to read:

14 ~~110.~~

15 121. “Office” includes head office, branch office, and any other
16 authorized place of business of a licensee.

17 “Head office” means the principal place of business of a licensee.

18 SEC. 14. Section 111 of the Financial Code is amended and
19 renumbered to read:

20 ~~111.~~

21 123. “Real property” and “personal property” have the
22 meanings defined in and shall be construed in accordance with
23 Title 1, Part 1, Division 2, Civil Code of California.

24 SEC. 15. Section 112 of the Financial Code is amended and
25 renumbered to read:

26 ~~112.~~

27 125. “Commissioner” means the Commissioner of Financial
28 Institutions and “department” means the Department of Financial
29 Institutions.

30 SEC. 16. Section 113 of the Financial Code is amended and
31 renumbered to read:

32 ~~113.~~

33 127. “Person” means an individual, sole proprietorship,
34 partnership, joint venture, association, trust, estate, business trust,
35 corporation, joint stock company, limited liability company,
36 unincorporated association, sovereign government or agency,
37 instrumentality, or political subdivision thereof, or any similar
38 entity or organization.

39 SEC. 17. Section 115 of the Financial Code is amended and
40 renumbered to read:

1 ~~115.~~

2 129. Unless the provision or the context otherwise requires,
3 the definitions set forth in this chapter govern the construction of
4 this division.

5 SEC. 18. Section 119 of the Financial Code is amended and
6 renumbered to read:

7 ~~119.~~

8 131. References in this division to the voting of shares shall
9 be construed in accordance with Section 111 of the Corporations
10 Code.

11 SEC. 19. Section 120 of the Financial Code is amended and
12 renumbered to read:

13 ~~120.~~

14 133. If the articles of a bank provide for more or less than one
15 vote for any share on any matter, the references in Sections ~~123~~
16 ~~139~~ and ~~124~~ 141 to a majority or other proportion of shares means,
17 as to such matter, a majority or other proportion of the votes
18 entitled to be cast. Whenever, under Division 1 (commencing with
19 Section 100), Title 1 of the Corporations Code or this division,
20 shares are disqualified from voting on any matter, they shall not
21 be considered outstanding for the determination of a quorum at
22 any meeting to act upon, or the required vote to approve action
23 upon, such matter under any provision of Division 1 (commencing
24 with Section 100), Title 1 of the Corporations Code, of this
25 division, or of the articles or bylaws.

26 SEC. 20. Section 121 of the Financial Code is amended and
27 renumbered to read:

28 ~~121.~~

29 135. Any requirement in this division for a vote of each class
30 of outstanding shares shall be construed in accordance with Section
31 117 of the Corporations Code.

32 SEC. 21. Section 122 of the Financial Code is amended and
33 renumbered to read:

34 ~~122.~~

35 137. “Approved by (or approval of) the board” means approved
36 or ratified by the vote of the board or by the vote of a committee
37 authorized to exercise the powers of the board, except as to any
38 matter not within the competence of the committee under Section
39 311 of the Corporations Code or any matter for which this division

1 also requires approval of the shareholders or approval of the
2 outstanding shares.

3 SEC. 22. Section 123 of the Financial Code is amended and
4 renumbered to read:

5 ~~123.~~

6 *139.* “Approved by (or approval of) the outstanding shares”
7 has the meaning set forth in Section 152 of the Corporations Code
8 and shall include approval by the affirmative vote of a majority of
9 the outstanding shares of each class or series entitled, by any
10 provision of the articles, of this division, or of Division 1
11 (commencing with Section 100), Title 1 of the Corporations Code,
12 to vote as a class or series on the subject matter being voted upon,
13 and shall also include approval by the affirmative vote of such
14 greater proportion (including all) of the outstanding shares of any
15 class or series if such greater proportion is required by the articles,
16 by this division, or by Division 1 (commencing with Section 100),
17 Title 1 of the Corporations Code.

18 SEC. 23. Section 124 of the Financial Code is amended and
19 renumbered to read:

20 ~~124.~~

21 *141.* “Approved by (or approval of) the shareholders” has the
22 meaning set forth in Section 153 of the Corporations Code and
23 shall include approval or ratification by the affirmative vote or
24 written consent of such proportion (including all) greater than a
25 majority of the shares of any class or series as may be provided in
26 the articles, in this division, or in Division 1 (commencing with
27 Section 100), Title 1 of the Corporations Code for all or any
28 specified shareholder action.

29 SEC. 24. Section 125 of the Financial Code is amended and
30 renumbered to read:

31 ~~125.~~

32 *143.* “Articles” has the meaning set forth in Section 154 of the
33 Corporations Code.

34 SEC. 25. Section 126 of the Financial Code is amended and
35 renumbered to read:

36 ~~126.~~

37 *145.* “Board” has the meaning set forth in Section 155 of the
38 Corporations Code.

39 SEC. 26. Section 126.5 of the Financial Code is amended and
40 renumbered to read:

1 ~~126.5.~~

2 147. “California” means:

3 (a) When used with respect to a bank, in the case of a state bank,
4 a bank that is organized under the laws of this state and, in the case
5 of a national bank, a national bank that maintains its main office
6 in this state.

7 (b) When used with respect to an office of a bank, an office
8 which is located in this state.

9 (c) When used with respect to any corporation other than a bank,
10 a corporation that is organized under the laws of this state.

11 SEC. 27. Section 126.7 of the Financial Code is amended and
12 renumbered to read:

13 ~~126.7.~~

14 149. “CAMELS composite rating” shall have the meaning set
15 forth in Section 327.8(j) of Title 12 of the Code of Federal
16 Regulations.

17 SEC. 28. Section 127 of the Financial Code is amended and
18 renumbered to read:

19 ~~127.~~

20 151. “Certificate of correction” means a certificate executed
21 and filed with the Secretary of State pursuant to Section 109 of
22 the Corporations Code, subject, however, to the provisions of
23 Section ~~600.10~~ 1105.

24 SEC. 29. Section 128 of the Financial Code is amended and
25 renumbered to read:

26 ~~128.~~

27 153. “Certificate of determination” has the meaning set forth
28 in Section 156 of the Corporations Code, subject, however, to the
29 provisions of Section 600.8.

30 SEC. 30. Section 129 of the Financial Code is amended and
31 renumbered to read:

32 ~~129.~~

33 155. “Certificate of revocation” means a certificate executed
34 and filed with the Secretary of State pursuant to the second and
35 third sentences of subdivision (c) of Section 110 of the
36 Corporations Code, subject, however, to the provisions of Section
37 ~~600.12~~ 1106.

38 SEC. 31. Section 130 of the Financial Code is amended and
39 renumbered to read:

1 ~~130.~~

2 157. “Common shares” has the meaning set forth in Section
3 159 of the Corporations Code.

4 SEC. 32. Section 131 of the Financial Code is amended and
5 renumbered to read:

6 ~~131.~~

7 159. (a) “Confidential information” means any information
8 regarding a licensee contained in, or related to, any of the
9 following:

- 10 (1) Applications filed with the commissioner.
- 11 (2) Examination, operating, condition, or any other reports
12 prepared by, on behalf of, or for the use of, the commissioner.
- 13 (3) Information received in confidence by the commissioner.
- 14 (b) Confidential information is the property of the commissioner.

15 SEC. 33. Section 132 of the Financial Code is amended and
16 renumbered to read:

17 ~~132.~~

18 161. “Constituent corporation,” when used with respect to a
19 corporation:

- 20 (a) In the case of a merger, has the meaning set forth in Section
21 161 of the Corporations Code.
- 22 (b) In the case of a consolidation, means a corporation that is
23 consolidated with one or more other corporations.

24 SEC. 34. Section 134 of the Financial Code is amended and
25 renumbered to read:

26 ~~134.~~

27 163. “Contributed capital” means all of shareholders’ equity
28 other than retained earnings. However, nothing in this section shall
29 prohibit a bank from transferring amounts from time to time from
30 its retained earnings to its contributed capital, subject to any
31 applicable statutes, regulations, and generally accepted accounting
32 principles.

33 SEC. 35. Section 134.5 of the Financial Code is amended and
34 renumbered to read:

35 ~~134.5.~~

36 165. “Credit union” means a corporation of the type described
37 in Section 14002 organized under the laws of this state or a
38 corporation of similar type organized under the laws of the United
39 States or of any state of the United States other than this state.

1 SEC. 36. Section 135 of the Financial Code is amended and
2 renumbered to read:

3 ~~135.~~

4 167. “Directors” has the meaning set forth in Section 164 of
5 the Corporations Code.

6 SEC. 37. Section 137 of the Financial Code is amended and
7 renumbered to read:

8 ~~137.~~

9 169. “Disappearing,” when used with respect to a corporation,
10 means a constituent corporation that is not the surviving
11 corporation.

12 SEC. 38. Section 139 of the Financial Code is amended and
13 renumbered to read:

14 ~~139.~~

15 171. “Distribution to its shareholders” has the meaning set
16 forth in Section 166 of the Corporations Code. However, in
17 Division 1 (commencing with Section 100), Title 1 of the
18 Corporations Code and in this division, “distribution to its
19 shareholders” does not include any purchase of shares by a bank
20 or by a majority-owned subsidiary of a bank which is necessary
21 to reduce or avoid loss to such bank or to such subsidiary on an
22 extension of credit previously made in good faith. Also, in this
23 division, “distribution to its shareholders” includes any distribution
24 made by a bank or by a majority-owned subsidiary of a bank to
25 the shareholders of any corporation of which such bank is a
26 majority-owned subsidiary.

27 SEC. 39. Section 139.2 of the Financial Code is amended and
28 renumbered to read:

29 ~~139.2.~~

30 173. (a) “Foreign,” when used with respect to a bank, an office
31 of a bank, or any corporation other than a bank, means foreign
32 (other nation) or foreign (other state).

33 (b) “Foreign banking corporation” means a foreign bank.

34 SEC. 40. Section 139.3 of the Financial Code is amended and
35 renumbered to read:

36 ~~139.3.~~

37 175. “Foreign nation” means any nation other than the United
38 States, including, without limitation, any subdivision, territory,
39 trust territory, dependency, colony, or possession of any nation
40 other than the United States. “Foreign nation” includes Puerto

1 Rico, Guam, American Samoa, the Virgin Islands, and any
2 territory, trust territory, dependency, or insular possession of the
3 United States.

4 SEC. 41. Section 139.4 of the Financial Code is amended and
5 renumbered to read:

6 ~~139.4.~~

7 177. (a) The definition of “state of the United States” in
8 Section ~~146.7~~ 207 does not apply to this section. In this section,
9 “state of the United States” means any state of the United States
10 or the District of Columbia.

11 (b) “Foreign (other nation):”

12 (1) When used with respect to a bank, means any bank
13 (including, without limitation, any commercial bank, merchant
14 bank, or other institution that engages in banking activities that
15 are usual in connection with the business of banking in the nation
16 in which the institution is organized or operating) other than (A)
17 a bank that is organized under the laws of a state of the United
18 States or (B) a national bank that maintains its main office in a
19 state of the United States.

20 (2) When used with respect to an office of a bank, means an
21 office that is located in a place other than a state of the United
22 States.

23 (3) When used with respect to any corporation other than a bank,
24 means a corporation that is organized under the laws of a foreign
25 nation.

26 SEC. 42. Section 139.5 of the Financial Code is amended and
27 renumbered to read:

28 ~~139.5.~~

29 179. “Foreign (other state):”

30 (a) When used with respect to a bank, means a bank that is
31 organized under the laws of any state of the United States other
32 than this state, or a national bank that maintains its main office in
33 any state of the United States other than this state, and includes
34 any savings bank, as defined in Section 3(g) of the Federal Deposit
35 Insurance Act (12 U.S.C. Sec. 1813(g)), that is organized under
36 the laws of a state other than this state.

37 (b) When used with respect to an office of a bank, means an
38 office that is located in a state other than this state.

39 (c) When used with respect to a corporation other than a bank,
40 means a corporation that is organized under the laws of any state

1 of the United States other than this state or under the laws of the
2 United States.

3 SEC. 43. Section 139.7 of the Financial Code is amended and
4 renumbered to read:

5 ~~139.7.~~

6 181. “Insured:”

7 (a) When used with respect to a bank or an office of a bank,
8 means a bank or office the deposits of which are insured by the
9 Federal Deposit Insurance Corporation under the Federal Deposit
10 Insurance Act (12 U.S.C. Sec. 1811 et seq.).

11 (b) When used with respect to a deposit, means a deposit that
12 is insured by the Federal Deposit Insurance Corporation under the
13 Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.).

14 SEC. 44. Section 139.9 of the Financial Code is amended and
15 renumbered to read:

16 ~~139.9.~~

17 183. “Law of the domicile” means:

18 (a) When used with respect to a national bank, the law of the
19 United States.

20 (b) When used with respect to a state bank, the law of the state
21 of the United States under which the bank is organized.

22 (c) When used with respect to a foreign (other nation) bank, the
23 law of the foreign nation under which the bank is organized.

24 SEC. 45. Section 139.95 of the Financial Code is amended and
25 renumbered to read:

26 ~~139.95.~~

27 185. “Licensee” has the following meanings:

28 (a) Any bank authorized by the commissioner pursuant to
29 ~~Section 401 Chapter 3 (commencing with Section 1040) of Division~~
30 *1.1* to transact banking or trust business.

31 (b) Any industrial bank authorized by the commissioner pursuant
32 to ~~Section 401 Chapter 3 (commencing with Section 1040) of~~
33 *Division 1.1* to transact industrial banking business.

34 (c) Any trust company authorized by the commissioner pursuant
35 to Section 401 to transact trust business.

36 (d) Any foreign (other nation) bank that is licensed under Article
37 2 (commencing with Section ~~1725~~ 1780) of Chapter ~~13.5 20 of~~
38 *Division 1.1* or under Article 3 (commencing with Section ~~1750~~)
39 *1800* of Chapter ~~13.5 20 of Division 1.1~~.

1 (e) Any corporation licensed by the commissioner to transmit
2 money pursuant to ~~Section 1802.7 Chapter 3 (commencing with~~
3 ~~Section 2030) of Division 1.2.~~

4 ~~(f) Any person licensed by the commissioner to issue traveler's~~
5 ~~checks pursuant to Section 1860.~~

6 ~~(g)~~

7 (f) Any person authorized by the commissioner to conduct the
8 business of a savings association pursuant to Division 2
9 (commencing with Section 5000).

10 ~~(h)~~

11 (g) Any credit union authorized by the commissioner to conduct
12 business pursuant to Section 14154.

13 ~~(i)~~

14 (h) Any foreign (other state) credit union licensed by the
15 commissioner to conduct business pursuant to Chapter 11
16 (commencing with Section 16000) of Division 5.

17 ~~(j)~~

18 (i) Any foreign (other nation) credit union licensed by the
19 commissioner to conduct business pursuant to Chapter 12
20 (commencing with Section 16500) of Division 5.

21 ~~(k)~~

22 (j) Any industrial loan company authorized by the commissioner
23 to conduct insurance premium finance business pursuant to
24 Division 7 (commencing with Section 18000).

25 ~~(l)~~

26 (k) Any corporation licensed by the commissioner as a business
27 and industrial development corporation pursuant to Section 31154.

28 ~~(m) Any corporation licensed by the commissioner pursuant to~~
29 ~~Section 33406 to engage in the business of selling payment~~
30 ~~instruments.~~

31 SEC. 46. Section 140 of the Financial Code is amended and
32 renumbered to read:

33 ~~140.~~

34 187. "Majority-owned subsidiary" has the meaning set forth
35 for "subsidiary" in subdivision (a) of Section 189 of the
36 Corporations Code.

37 SEC. 47. Section 140.3 of the Financial Code is amended and
38 renumbered to read:

1 ~~140.3.~~

2 189. (a) “National bank” or “national banking association”
3 means a national banking association organized under the National
4 Bank Act.

5 (b) For purposes of this division, a national bank is deemed to
6 be a corporation.

7 SEC. 48. Section 140.5 of the Financial Code is amended and
8 renumbered to read:

9 ~~140.5.~~

10 191. “Officers’ certificate” has the meaning set forth in Section
11 173 of the Corporations Code.

12 SEC. 49. Section 142 of the Financial Code is amended and
13 renumbered to read:

14 ~~142.~~

15 193. “Resulting,” when used with respect to a corporation,
16 means:

17 (a) In the case of a consolidation, the corporation into which
18 the constituent corporations are consolidated.

19 (b) In the case of a conversion, the corporation into which the
20 converting corporation is converted.

21 SEC. 50. Section 142.5 of the Financial Code is amended and
22 renumbered to read:

23 ~~142.5.~~

24 195. “ROCA supervisory rating” shall have the meaning set
25 forth in Section 327.8(k) of Title 12 of the Code of Federal
26 Regulations.

27 SEC. 51. Section 143 of the Financial Code is amended and
28 renumbered to read:

29 ~~143.~~

30 197. “Savings association” includes a savings association, a
31 savings and loan association, and a savings bank. However,
32 “savings association” does not include any savings bank of the
33 type defined in Section 3(g) of the Federal Deposit Insurance Act
34 (12 U.S.C. Section 1813(g)).

35 SEC. 52. Section 144 of the Financial Code is amended and
36 renumbered to read:

37 ~~144.~~

38 199. “Series,” when used with respect to shares, has the
39 meaning set forth in Section 183 of the Corporations Code.

1 SEC. 53. Section 145 of the Financial Code is amended and
2 renumbered to read:

3 ~~145.~~

4 201. “Shares” has the meaning set forth in Section 184 of the
5 Corporations Code.

6 SEC. 54. Section 146 of the Financial Code is amended and
7 renumbered to read:

8 ~~146.~~

9 203. “Shareholder” has the meaning set forth in Section 185
10 of the Corporations Code.

11 SEC. 55. Section 146.3 of the Financial Code is amended and
12 renumbered to read:

13 ~~146.3.~~

14 205. “State”:

15 (a) When used with respect to a corporation, means a corporation
16 that is organized under the laws of a state of the United States.

17 (b) When used with respect to an office of a foreign (other
18 nation) bank, means an office that the bank is authorized to
19 maintain under the laws of a state of the United States.

20 SEC. 56. Section 146.7 of the Financial Code is amended and
21 renumbered to read:

22 ~~146.7.~~

23 207. “State of the United States” means any state of the United
24 States, the District of Columbia, any territory of the United States,
25 Puerto Rico, Guam, American Samoa, the Trust Territory of the
26 Pacific Islands, the Virgin Islands, and the Northern Mariana
27 Islands.

28 SEC. 57. Section 148 of the Financial Code is amended and
29 renumbered to read:

30 ~~148.~~

31 209. “Surviving,” when used with respect to a corporation,
32 means a corporation in which one or more other corporations are
33 merged.

34 SEC. 58. Section 148.5 of the Financial Code is amended and
35 renumbered to read:

36 ~~148.5.~~

37 211. “Uniform Interagency Trust Rating System (UITRS)”
38 shall have the meaning set forth in the policy statement regarding
39 the uniform interagency trust rating system published by the

1 Federal Financial Institutions Examination Council on October
 2 13, 1998 (63 Fed. Reg. 54704).

3 SEC. 59. Section 149.3 of the Financial Code is amended and
 4 renumbered to read:

5 ~~149.3.~~

6 213. “Uniform Rating System for Informational Technology
 7 (URSIT)” shall have the meaning set forth in the policy statement
 8 regarding the uniform rating system for information technology
 9 published by the Federal Financial Institutions Examination
 10 Council on January 20, 1999, and implemented on or before April
 11 1, 1999 (64 Fed. Reg. 3109).

12 SEC. 60. Section 150 of the Financial Code is amended and
 13 renumbered to read:

14 ~~150.~~

15 215. “Vote” has the meaning set forth in Section 194 of the
 16 Corporations Code.

17 SEC. 61. Section 151 of the Financial Code is amended and
 18 renumbered to read:

19 ~~151.~~

20 217. “Voting power” has the meaning set forth in Section 194.5
 21 of the Corporations Code.

22 SEC. 62. The heading of Chapter 1.5 (commencing with
 23 Section 180) of Division 1 of the Financial Code is repealed.

24

25 ~~CHAPTER 1.5. TRANSITION PROVISIONS~~

26

27 SEC. 63. Section 180 of the Financial Code is amended and
 28 renumbered to read:

29 ~~180.~~

30 250. In this chapter, unless the provision or context requires
 31 otherwise:

32 (a) “New General Corporation Law” means Division 1
 33 (commencing with Section 100), Title 1 of the Corporations Code,
 34 as in effect on and after January 1, 1977.

35 (b) “Prior Banking Law” means this division, as in effect on
 36 December 31, 1978.

37 (c) “Prior General Corporation Law” means Division 1
 38 (commencing with Section 100), Title 1 of the Corporations Code,
 39 as in effect on December 31, 1976.

1 (d) “Revised Banking Law” means this division, as in effect on
2 and after January 1, 1979.

3 (e) “Subject institution” means:

4 (1) Any corporation incorporated under the laws of this state
5 which is, with the approval of the commissioner, incorporated for
6 the purpose of engaging in, or which is authorized by the
7 commissioner to engage in, the commercial banking business under
8 Division 1 (commencing with Section 99) of the Financial Code.

9 (2) Any corporation incorporated under the laws of this state
10 which is, with the approval of the commissioner, incorporated for
11 the purpose of engaging in, or which is authorized by the
12 commissioner to engage in, the trust business under Division 1
13 (commencing with Section 99) of the Financial Code.

14 (3) Any corporation incorporated under the laws of this state
15 which is, with the approval of the commissioner, incorporated for
16 the purpose of engaging in, or which is authorized by the
17 commissioner to engage in, business under Article 1 (commencing
18 with Section 3500), Chapter 19 of this division.

19 SEC. 64. Section 181 of the Financial Code is amended and
20 renumbered to read:

21 ~~181.~~

22 251. For purposes of Chapter 23 (commencing with Section
23 2300) of the new General Corporation Law, in the case of any
24 subject institution existing on January 1, 1979:

25 (a) The term “new law” shall mean the new General Corporation
26 Law, subject, however, to the provisions of Section 101 of the
27 revised banking law.

28 (b) The term “prior law” shall mean the prior General
29 Corporation Law, subject, however, to the provisions of Section
30 101 of the prior Banking Law.

31 (c) The term “effective date” shall mean January 1, 1979.

32 SEC. 65. Section 182 of the Financial Code is amended and
33 renumbered to read:

34 ~~182.~~

35 252. (a) ~~Sections 600 and 600.2 of the revised Banking Law~~
36 ~~Section 1100~~ shall not apply to any subject institution existing on
37 January 1, 1979, unless and until an amendment of the articles of
38 ~~such~~ *the* subject institution is filed with the Secretary of State
39 pursuant to Section 2302 of the new General Corporation Law.

1 (b) An amendment of the articles of a subject institution existing
 2 on January 1, 1979, which is filed with the Secretary of State
 3 pursuant to Section 2302 of the new General Corporation Law
 4 may be adopted by approval of the board alone in accordance with
 5 the second sentence of Section 2302 of the new General
 6 Corporation Law, notwithstanding the fact that ~~such~~ *the* amendment
 7 changes ~~such~~ *the* articles to conform to the provisions of Sections
 8 ~~600 and 600.2 of the revised Banking Law Section 1100.~~

9 (c) ~~Neither Article 6 (commencing with Section 690), Chapter~~
 10 ~~5 of the revised Banking Law Chapter 6 (commencing with Section~~
 11 ~~1200) of Division 1.1 nor Section 904 of the new General~~
 12 Corporation Law shall apply to an amendment of the articles of a
 13 subject institution existing on January 1, 1979, which is filed with
 14 the Secretary of State pursuant to Section 2302 of the new General
 15 Corporation Law on account of the fact that ~~such~~ *the* amendment
 16 conforms ~~such~~ *the* articles to the *applicable* provisions of ~~Section~~
 17 ~~600.2 of the revised Banking Law Division 1.1 (commencing with~~
 18 ~~Section 1000).~~

19 SEC. 66. Section 184 of the Financial Code is amended and
 20 renumbered to read:

21 ~~184.~~

22 253. In case the board of a subject institution has, prior to
 23 January 1, 1979, adopted a resolution levying an assessment on
 24 the common shares of ~~such~~ *the* subject institution in accordance
 25 with an order issued by the commissioner pursuant to Section ~~661~~
 26 ~~1151~~ of the prior Banking Law:

27 (a) If the assessment has, prior to January 1, 1979, become a
 28 lien on the common shares in accordance with Section 2704 of the
 29 prior General Corporation Law, the assessment shall be collected
 30 pursuant to the prior General Corporation Law:

31 (b) Otherwise, the resolution shall be deemed to be rescinded
 32 on January 1, 1979.

33 SEC. 67. Section 185 of the Financial Code is amended and
 34 renumbered to read:

35 ~~185.~~

36 254. Article 3 (commencing with Section 640); *of* Chapter 5
 37 *of Division 1.1* of the revised Banking Law applies to any
 38 distribution to its shareholders made after January 1, 1979, by a
 39 subject institution existing on January 1, 1979, except that any
 40 such distribution effected pursuant to a contract for the purchase

1 or redemption of shares entered into by such subject institution
2 prior to January 1, 1979, may be made if permissible under the
3 applicable provisions of the revised Banking Law and the new
4 General Corporation Law or under the applicable provisions of
5 the prior Banking Law and the prior General Corporation Law in
6 effect at the time such contract was entered into.

7 SEC. 68. The heading of Chapter 2 (commencing with Section
8 200) of Division 1 of the Financial Code is repealed.

9

10 ~~CHAPTER 2. DEPARTMENT OF FINANCIAL INSTITUTIONS~~

11

12 SEC. 69. The heading of Article 1 (commencing with Section
13 200) of Chapter 2 of Division 1 of the Financial Code is repealed.

14

15 ~~Article 1. General~~

16

17 SEC. 70. Section 200 of the Financial Code is amended and
18 renumbered to read:

19

~~200.~~

20

300. (a) In this section:

21

(1) "Business and industrial development corporation" means
22 a corporation licensed under Division 15 (commencing with
23 Section 31000).

24

(2) "Payment instrument" has the same meaning as set forth in
25 Section ~~33059~~ 1803.

26

(3) "Traveler's check" has the same meaning as set forth in
27 Section ~~1852~~ 1803.

28

(b) There is in the state government, in the Business,
29 Transportation and Housing Agency, a Department of Financial
30 Institutions which has charge of the execution of, among other
31 laws, the laws of this state relating to any of the following: (1)
32 banks or trust companies or the banking or trust business; (2)
33 savings associations or the savings association business; (3) credit
34 unions or the credit union business; (4) persons who engage in the
35 business of receiving money for transmission to foreign nations
36 or such business; (5) issuers of traveler's checks or the traveler's
37 check business; (6) issuers of payment instruments or the payment
38 instrument business; (7) business and industrial development
39 corporations or the business and industrial development corporation

1 business, or (8) insurance premium finance agencies or the
2 insurance premium finance business.

3 SEC. 71. Section 201 of the Financial Code is amended and
4 renumbered to read:

5 ~~201.~~

6 *301.* This chapter is applicable to this division, Division ~~4~~
7 ~~(commencing with Section 99)~~ *1.1 (commencing with Section*
8 *1000)*, Division *1.2 (commencing with Section 2000)*, Division *1.5*
9 *(commencing with Section 4800)*, Division *5 (commencing with*
10 *Section 14000)*, Division *7 (commencing with Section 18000)*,
11 *and Division 15 (commencing with Section 31000)*, ~~and Division~~
12 ~~16 (commencing with Section 33000).~~

13 SEC. 72. The heading of Article 2 (commencing with Section
14 210) of Chapter 2 of Division 1 of the Financial Code is repealed.

15

16 ~~Article 2. Commissioner of Financial Institutions~~

17

18 SEC. 73. Section 210 of the Financial Code is amended and
19 renumbered to read:

20 ~~210.~~

21 *320.* The chief officer of the Department of Financial
22 Institutions is the Commissioner of Financial Institutions. The
23 Commissioner of Financial Institutions is the head of the
24 department and, except as otherwise provided in this code, is
25 subject to the provisions of the Government Code relating to
26 department heads, but need not reside in Sacramento.

27 SEC. 74. Section 210.5 of the Financial Code is amended and
28 renumbered to read:

29 ~~210.5.~~

30 *321.* As of the operative date of this section:

31 (a) In this section, “order” means any approval, consent,
32 authorization, exemption, denial, prohibition, requirement, or other
33 administrative action, applicable to a specific case.

34 (b) The office of the Superintendent of Banks and the State
35 Banking Department are abolished. All powers, duties,
36 responsibilities, and functions of the Superintendent of Banks and
37 the State Banking Department are transferred to the Commissioner
38 of Financial Institutions and the Department of Financial
39 Institutions, respectively. The Commissioner of Financial
40 Institutions and the Department of Financial Institutions succeed

1 to all the rights and property of the Superintendent of Banks and
2 the State Banking Department, respectively; the Commissioner of
3 Financial Institutions and the Department of Financial Institutions
4 are subject to all the debts and liabilities of the Superintendent of
5 Banks and the State Banking Department, respectively, as if the
6 Commissioner of Financial Institutions and the Department of
7 Financial Institutions had incurred them. Any action or proceeding
8 by or against the Superintendent of Banks or the State Banking
9 Department may be prosecuted to judgment, which shall bind the
10 Commissioner of Financial Institutions or the Department of
11 Financial Institutions, respectively, or the Commissioner of
12 Financial Institutions or the Department of Financial Institutions
13 may be proceeded against or substituted in place of the
14 Superintendent of Banks or the State Banking Department,
15 respectively. References in the Constitution of the State of
16 California or in any statute or regulation to the Superintendent of
17 Banks or to the State Banking Department mean the Commissioner
18 of Financial Institutions or the Department of Financial Institutions,
19 respectively. All agreements entered into with, and orders and
20 regulations issued by, the Superintendent of Banks or the State
21 Banking Department shall continue in effect as if the agreements
22 were entered into with, and the orders and regulations were issued
23 by, the Commissioner of Financial Institutions or the Department
24 of Financial Institutions, respectively.

25 (c) The office of the Savings and Loan Commissioner and the
26 Department of Savings and Loan are abolished. All powers, duties,
27 responsibilities, and functions of the Savings and Loan
28 Commissioner and the Department of Savings and Loan are
29 transferred to the Commissioner of Financial Institutions and the
30 Department of Financial Institutions, respectively. The
31 Commissioner of Financial Institutions and the Department of
32 Financial Institutions succeed to all the rights and property of the
33 Savings and Loan Commissioner and the Department of Savings
34 and Loan, respectively; the Commissioner of Financial Institutions
35 and the Department of Financial Institutions are subject to all the
36 debts and liabilities of the Savings and Loan Commissioner and
37 the Department of Savings and Loan, respectively, as if the
38 Commissioner of Financial Institutions and the Department of
39 Financial Institutions had incurred them. Any action or proceeding
40 by or against the Savings and Loan Commissioner or the

1 Department of Savings and Loan may be prosecuted to judgment,
2 which shall bind the Commissioner of Financial Institutions or the
3 Department of Financial Institutions, respectively, or the
4 Commissioner of Financial Institutions or the Department of
5 Financial Institutions may be proceeded against or substituted in
6 place of the Savings and Loan Commissioner or the Department
7 of Savings and Loan, respectively. References in the Constitution
8 of the State of California or in any statute or regulation to the
9 Savings and Loan Commissioner or to the Department of Savings
10 and Loan mean the Commissioner of Financial Institutions or the
11 Department of Financial Institutions, respectively. All agreements
12 entered into with, and orders and regulations issued by, the Savings
13 and Loan Commissioner or the Department of Savings and Loan
14 shall continue in effect as if the agreements were entered into with,
15 and the orders and regulations were issued by, the Commissioner
16 of Financial Institutions or the Department of Financial Institutions.

17 (d) All powers, duties, responsibilities, and functions of the
18 Commissioner of Corporations and the Department of Corporations
19 with respect to credit unions, the credit union business, industrial
20 loan companies, or the industrial loan business are transferred to
21 the Commissioner of Financial Institutions and the Department of
22 Financial Institutions, respectively. The Commissioner of Financial
23 Institutions and the Department of Financial Institutions succeed
24 to all the rights and property of the Commissioner of Corporations
25 and the Department of Corporations, respectively, with respect to
26 credit unions, the credit union business, industrial loan companies,
27 or the industrial loan business; the Commissioner of Financial
28 Institutions and the Department of Financial Institutions are subject
29 to all the debts and liabilities of the Commissioner of Corporations
30 and the Department of Corporations, respectively, with respect to
31 credit unions, the credit union business, industrial loan companies,
32 or the industrial loan business, as if the Commissioner of Financial
33 Institutions and the Department of Financial Institutions had
34 incurred them. Any action or proceeding by or against the
35 Commissioner of Corporations or the Department of Corporations
36 with respect to credit unions, the credit union business, industrial
37 loan companies, or the industrial loan business may be prosecuted
38 to judgment, which shall bind the Commissioner of Financial
39 Institutions or the Department of Financial Institutions,
40 respectively, or the Commissioner of Financial Institutions or the

1 Department of Financial Institutions may be proceeded against or
2 substituted in place of the Commissioner of Corporations or the
3 Department of Corporations, respectively. References in the
4 Constitution of the State of California or any statute or regulation
5 to the Commissioner of Corporations or to the Department of
6 Corporations with respect to credit unions, the credit union
7 business, industrial loan companies, or the industrial loan business
8 mean the Commissioner of Financial Institutions or the Department
9 of Financial Institutions, respectively. All agreements entered into
10 with, and orders and regulations issued by, the Commissioner of
11 Corporations or the Department of Corporations in the exercise of
12 authority under any law relating to credit unions, the credit union
13 business, industrial loan companies, or the industrial loan business,
14 shall continue in effect as if the agreements were entered into with,
15 and the orders and regulations were issued by, the Commissioner
16 of Financial Institutions or the Department of Financial Institutions.

17 SEC. 75. Section 211 of the Financial Code is amended and
18 renumbered to read:

19 ~~211.~~

20 322. The commissioner is appointed by the Governor, and
21 holds office at the pleasure of the Governor. The appointment of
22 the commissioner is subject to confirmation by the Senate.

23 SEC. 76. Section 212 of the Financial Code is amended and
24 renumbered to read:

25 ~~212.~~

26 323. The commissioner shall be a citizen of the United States
27 and a resident of the state for at least three years prior to his or her
28 appointment. The commissioner shall be chosen solely for his or
29 her qualifications and fitness to perform the duties of his or her
30 office.

31 SEC. 77. Section 213 of the Financial Code is amended and
32 renumbered to read:

33 ~~213.~~

34 324. The annual salary of the commissioner is provided for by
35 Chapter 6 (commencing with Section 11550) of Part 1 of Division
36 3 of Title 2 of the Government Code.

37 SEC. 78. Section 214 of the Financial Code is amended and
38 renumbered to read:

1 ~~214.~~

2 325. Before entering upon the duties of his or her office, the
3 commissioner shall take and subscribe to the constitutional oath
4 of office and file the same with the Secretary of State.

5 SEC. 79. Section 215 of the Financial Code is amended and
6 renumbered to read:

7 ~~215.~~

8 326. The commissioner is responsible for the performance of
9 all duties, the exercise of all powers and jurisdiction, and the
10 assumption and discharge of all responsibilities vested by law in
11 the department. The commissioner has and may exercise all the
12 powers necessary or convenient for the administration and
13 enforcement of, among other laws, the laws described in Section
14 ~~200~~ 300. The commissioner may issue such rules and regulations
15 consistent with law as he or she may deem necessary or advisable
16 in executing the powers, duties, and responsibilities of the
17 department.

18 SEC. 80. Section 215.5 of the Financial Code is amended and
19 renumbered to read:

20 ~~215.5.~~

21 327. (a) The commissioner shall apply the Interagency
22 Guidance on Nontraditional Mortgage Product Risks issued in
23 September 2006 and the Statement on Subprime Mortgage Lending
24 issued in June 2007 by the Office of the Comptroller of the
25 Currency, the Board of Governors of the Federal Reserve System,
26 the Federal Deposit Insurance Corporation, the Office of Thrift
27 Supervision, and the National Credit Union Administration to
28 state-regulated financial institutions, including, but not limited to,
29 privately insured, state-chartered credit unions.

30 (b) The commissioner may issue emergency and final regulations
31 to clarify the application of this section as soon as possible.

32 (c) A bank or credit union to which the commissioner applies
33 the documents described in subdivision (a) shall adopt and adhere
34 to policies and procedures that are reasonably intended to achieve
35 the objectives set forth in those documents.

36 SEC. 81. Section 216 of the Financial Code is amended and
37 renumbered to read:

1 ~~216.~~

2 328. (a) The commissioner may make the agreements that he
3 or she deems necessary or appropriate in exercising his or her
4 powers.

5 (b) (1) The agreements authorized under subdivision (a) may
6 include, but are not limited to, agreements with agencies of this
7 state, of other states of the United States, of the United States, or
8 of foreign nations that regulate financial institutions, relating to
9 examinations of banks, savings associations, credit unions,
10 industrial loan companies, and other matters.

11 (2) Any agreement with a government agency that regulates
12 financial institutions is exempt from the advertising and
13 competitive bidding requirements of the Public Contract Code.

14 SEC. 82. Section 216.3 of the Financial Code is amended and
15 renumbered to read:

16 ~~216.3.~~

17 329. (a) For purposes of this section, the following definitions
18 apply:

19 (1) “Applicable law” means:

20 (A) With respect to any bank, Division 1.5 (commencing with
21 Section 4800), and any of the following provisions of Division 1
22 (commencing with Section 99) of the Financial Code:

23 (i) ~~Article 5 (commencing with Section 270) of Chapter 2 6~~
24 ~~(commencing with Section 405) of Chapter 3.~~

25 (ii) ~~Article 3 (commencing with Section 640) 1130) of Chapter~~
26 ~~5 of Division 1.1.~~

27 (iii) ~~Article 4.5 (commencing with Section 670) of Chapter 5.~~

28 ~~(iv)~~

29 ~~(iii) Article 6 (commencing with Section 690) of Chapter 5~~
30 ~~Chapter 6 (commencing with Section 1200) of Division 1.1.~~

31 ~~(v)~~

32 ~~(iv) Chapter 6 (commencing with Section 750) Chapter 10~~
33 ~~(commencing with Section 1320) of Division 1.1.~~

34 ~~(vi)~~

35 ~~(v) Chapter 10 (commencing with Section 1200) 14~~
36 ~~(commencing with Section 1460) of Division 1.1.~~

37 ~~(vii)~~

38 ~~(vi) Article 1 (commencing with Section 1400) of Chapter 11~~
39 ~~1530) of Chapter 15 of Division 1.1.~~

40 ~~(viii)~~

- 1 (vii) Chapter ~~12~~ (commencing with Section ~~1500~~) 16
 2 (commencing with Section 1550) of Division 1.1.
 3 ~~(ix)~~
 4 (viii) Chapter ~~13.5~~ (commencing with Section ~~1700~~) 20
 5 (commencing with Section 1750) of Division 1.1.
 6 ~~(x)~~
 7 (ix) Section ~~286~~ 456.
 8 ~~(xi)~~
 9 (x) Section ~~287~~ 457.
 10 ~~(xii)~~
 11 (xi) Section ~~289~~ 459.
 12 ~~(xiii)~~
 13 (xii) Section ~~290~~ 460.
 14 ~~(xiv)~~ Section ~~1951~~.
 15 ~~(xv)~~ Section ~~3359~~.
 16 ~~(xvi)~~
 17 (xii) Chapter ~~19~~ (commencing with Section ~~3500~~) 21
 18 (commencing with Section 1850) of Division 1.1.
 19 (xvii) Chapter ~~21.5~~ (commencing with Section ~~3750~~) 18
 20 (commencing with section 1660) of Division 1.1.
 21 (xviii) Chapter ~~22~~ (commencing with Section ~~3800~~) 19
 22 (commencing with Section 1670) of Division 1.1.
 23 (B) With respect to any savings association, any provision of
 24 Division 1.5 (commencing with Section 4800) and Division 2
 25 (commencing with Section 5000).
 26 (C) With respect to any issuer of traveler's checks, any provision
 27 of Chapter ~~14A~~ (commencing with Section ~~1851~~) of Division 1
 28 Division 1.2 (commencing with Section 2000).
 29 (D) With respect to any insurance premium finance company,
 30 any provision of Division 7 (commencing with Section 18000).
 31 (E) With respect to any business and development corporation,
 32 any provision of Division 15 (commencing with Section 31000).
 33 (F) With respect to any credit union, any of the following
 34 provisions:
 35 (i) Section 14252.
 36 (ii) Section 14253.
 37 (iii) Section 14255.
 38 (iv) Article 4 (commencing with Section 14350) of Chapter 3
 39 of Division 5.
 40 (v) Section 14401.

- 1 (vi) Section 14404.
- 2 (vii) Section 14408, only as that section applies to gifts to
- 3 directors, volunteers, and employees, and the related family or
- 4 business interests of the directors, volunteers, and employees.
- 5 (viii) Section 14409.
- 6 (ix) Section 14410.
- 7 (x) Article 5 (commencing with Section 14600) of Chapter 4
- 8 of Division 5.
- 9 (xi) Article 6 (commencing with Section 14650) of Chapter 4
- 10 of Division 5, excluding subdivision (a) of Section 14651.
- 11 (xii) Section 14803.
- 12 (xiii) Section 14851.
- 13 (xiv) Section 14858.
- 14 (xv) Section 14860.
- 15 (xvi) Section 14861.
- 16 (xvii) Section 14863.
- 17 (G) With respect to any person licensed to transmit money
- 18 abroad, any provision of Chapter 14 (commencing with Section
- 19 1800).
- 20 ~~(H) With respect to any person licensed to sell payment~~
- 21 ~~instruments, any provision of Division 16 (commencing with~~
- 22 ~~Section 33000).~~
- 23 (2) “Licensee” means any bank, savings association, credit
- 24 union, transmitter of money abroad, issuer of payment instruments,
- 25 issuer of traveler’s checks, insurance premium finance agency, or
- 26 business and industrial development corporation that is authorized
- 27 by the commissioner to conduct business in this state.
- 28 (b) Notwithstanding any other provision of this code that applies
- 29 to a licensee or a subsidiary of a licensee, after notice and an
- 30 opportunity to be heard, the commissioner may, by order that shall
- 31 include findings of fact which incorporates a determination made
- 32 in accordance with subdivision (e), levy civil penalties against any
- 33 licensee or any subsidiary of a licensee who has violated any
- 34 provision of applicable law, any order issued by the commissioner,
- 35 any written agreement between the commissioner and the licensee
- 36 or subsidiary of the licensee, or any condition of any approval
- 37 issued by the commissioner. Notwithstanding any other provision
- 38 of law, neither the commissioner nor any employee of the
- 39 department shall disclose or permit the disclosure of any record,
- 40 record of any action, or information contained in a record of any

1 action, taken by the commissioner under the provisions of this
2 section, unless the action was taken pursuant to paragraph (2) of
3 subdivision (b), to persons other than federal or state government
4 employees who are authorized by statute to obtain the records in
5 the performance of their official duties, unless the disclosure is
6 authorized or requested by the affected licensee or the affected
7 subsidiary of the licensee. The commissioner shall have the sole
8 authority to bring any action with respect to a violation of
9 applicable law subject to a penalty imposed under this section.

10 Except as provided in paragraphs (1) and (2), any penalty
11 imposed by the commissioner may not exceed one thousand dollars
12 (\$1,000) a day, provided that the aggregate penalty of all offenses
13 in any one action against any licensee or subsidiary of a licensee
14 shall not exceed fifty thousand dollars (\$50,000).

15 (1) If the commissioner determines that any licensee or
16 subsidiary of the licensee has recklessly violated any applicable
17 law, any order issued by the commissioner, any provision of any
18 written agreement between the commissioner and the licensee or
19 subsidiary, or any condition of any approval issued by the
20 commissioner, the commissioner may impose a penalty not to
21 exceed five thousand dollars (\$5,000) per day, provided that the
22 aggregate penalty of all offenses in an action against any licensee
23 or subsidiary of a licensee shall not exceed seventy-five thousand
24 dollars (\$75,000).

25 (2) If the commissioner determines that any licensee or
26 subsidiary of the licensee has knowingly violated any applicable
27 law, any order issued by the commissioner, any provision of any
28 written agreement between the commissioner and the licensee or
29 subsidiary, or any condition of any approval issued by the
30 commissioner, the commissioner may impose a penalty not to
31 exceed ten thousand dollars (\$10,000) per day, provided that the
32 aggregate penalty of all offenses in an action against any licensee
33 or subsidiary of a licensee shall not exceed 1 percent of the total
34 assets of the licensee or subsidiary of a licensee subject to the
35 penalty.

36 (c) Nothing in this section shall be construed to impair or impede
37 the commissioner from pursuing any other administrative action
38 allowed by law.

39 (d) Nothing in this section shall be construed to impair or impede
40 the commissioner from bringing an action in court to enforce any

1 law or order he or she has issued, including orders issued under
2 this section. Nothing in this section shall be construed to impair
3 or impede the commissioner from seeking any other damages or
4 injunction allowed by law.

5 (e) In determining the amount and the appropriateness of
6 initiating a civil money penalty under subdivision (b), the
7 commissioner shall consider all of the following:

8 (1) Evidence that the violation or practice or breach of duty was
9 intentional or was committed with a disregard of the law or with
10 a disregard of the consequences to the institution.

11 (2) The duration and frequency of the violations, practices, or
12 breaches of duties.

13 (3) The continuation of the violations, practices, or breaches of
14 duty after the licensee or subsidiary of the licensee was notified,
15 or, alternatively, its immediate cessation and correction.

16 (4) The failure to cooperate with the commissioner in effecting
17 early resolution of the problem.

18 (5) Evidence of concealment of the violation, practice, or breach
19 of duty or, alternatively, voluntary disclosure of the violation,
20 practice, or breach of duty.

21 (6) Any threat of loss, actual loss, or other harm to the
22 institution, including harm to the public confidence in the
23 institution, and the degree of that harm.

24 (7) Evidence that a licensee or subsidiary of a licensee received
25 financial gain or other benefit as a result of the violation, practice,
26 or breach of duty.

27 (8) Evidence of any restitution paid by a licensee or subsidiary
28 of a licensee of losses resulting from the violation, practice, or
29 breach of duty.

30 (9) History of prior violations, practices, or breaches of duty,
31 particularly where they are similar to the actions under
32 consideration.

33 (10) Previous criticism of the institution for similar actions.

34 (11) Presence or absence of a compliance program and its
35 effectiveness.

36 (12) Tendency to engage in violations of law, unsafe or unsound
37 banking practices, or breaches of duties.

38 (13) The existence of agreements, commitments, orders, or
39 conditions imposed in writing intended to prevent the violation,
40 practice, or breach of duty.

1 (14) Whether the violation, practice, or breach of duty causes
2 quantifiable, economic benefit or loss to the licensee or the
3 subsidiary of the licensee. In those cases, removal of the benefit
4 or recompense of the loss usually will be insufficient, by itself, to
5 promote compliance with the applicable law, order, or written
6 agreement. The penalty amount should reflect a remedial purpose
7 and should provide a deterrent to future misconduct.

8 (15) Other factors as the commissioner may, in his or her
9 opinion, consider relevant to assessing the penalty or establishing
10 the amount of the penalty.

11 (f) The amounts collected under this section shall be deposited
12 in the appropriate fund of the department. For purposes of this
13 subdivision, the term “appropriate fund” means the fund to which
14 the annual assessments of fined licensees, or the parent licensee
15 of the fined subsidiary, are credited.

16 SEC. 83. Section 217 of the Financial Code is amended and
17 renumbered to read:

18 ~~217.~~

19 330. The authority vested in the Superintendent of Banks under
20 subdivision (2) of Section 1 of Article XV of the California
21 Constitution is delegated to the commissioner.

22 SEC. 84. Section 218 of the Financial Code is amended and
23 renumbered to read:

24 ~~218.~~

25 331. Notwithstanding any other provision of law, the
26 commissioner may adopt and implement any method of accepting
27 electronic filings of applications, reports, or other matters, which,
28 in the opinion of the commissioner, is secure. Any method of
29 electronic filing chosen by the commissioner shall include a method
30 to verify the identity of the person making the filing. The
31 verification shall be deemed to satisfy all other verifications
32 required by this division, and shall have the same force and effect
33 as the use of manual signatures.

34 SEC. 85. Section 219 of the Financial Code is amended and
35 renumbered to read:

36 ~~219.~~

37 332. (a) (1) In this section, “federal law” includes, but is not
38 limited to, the United States Constitution, any federal statute, any
39 federal court decision, and any regulation, circular, bulletin,

1 interpretation, decision, order, and waiver issued by a federal
2 agency.

3 (2) The definitions set forth in Section 1700 apply to this section.

4 (b) (1) Notwithstanding any other provision of law, except as
5 provided in subdivision (c), if the commissioner finds that any
6 provision of federal law applicable to national banking associations
7 doing business in this state is substantively different from the
8 provisions of this code applicable to banks organized under the
9 laws of this state, the commissioner may by regulation make that
10 provision of federal law applicable to banks organized under the
11 laws of this state.

12 (2) If the commissioner finds that any provision of federal law
13 applicable to foreign (other nation) banks with respect to federal
14 agencies or federal branches in this state is substantively different
15 from the provisions of this code applicable to foreign (other nation)
16 banks with respect to agencies or branch offices licensed by the
17 commissioner under Chapter 13.5 (commencing with Section
18 1700), the commissioner may by regulation make that provision
19 of federal law applicable to foreign (other nation) banks with
20 respect to agencies or branch offices licensed by the commissioner
21 under Chapter 13.5.

22 (c) (1) Section 11343.4 and Article 5 (commencing with Section
23 11346) and Article 6 (commencing with Section 11349) of Chapter
24 3.5 of Part 1 of Division 3 of Title 2 of the Government Code do
25 not apply to any regulation adopted under subdivision (b).

26 (2) The commissioner shall file any regulation adopted pursuant
27 to subdivision (b), together with a citation to this section as
28 authority for the adoption and a citation to the provisions of federal
29 law made applicable by the regulation, with the Office of
30 Administrative Law for filing with the Secretary of State and
31 publication in the California Code of Regulations.

32 (3) Any regulation adopted under subdivision (b) shall become
33 effective on the date when it is filed with the Secretary of State
34 unless the commissioner prescribes a later date in the regulation
35 or in a written instrument filed with the regulation.

36 (4) Any regulation adopted under subdivision (b) shall expire
37 at 12 p.m. on December 31 of the year following the calendar year
38 in which it becomes effective.

39 (5) Any regulation adopted pursuant to subdivision (b) shall be
40 subject to the following restrictions:

1 (A) The commissioner shall not renew or reinstate the regulation
2 adopted pursuant to subdivision (b).

3 (B) The commissioner shall not adopt a new regulation pursuant
4 to subdivision (b), to address the same conformity issue that was
5 addressed by the regulation that expired pursuant to subdivision
6 (c).

7 (d) The commissioner may adopt regulations pursuant to
8 subdivision (b) that are exempt from the expiration and restrictions
9 of subdivision (c) if the regulations are adopted in compliance with
10 all provisions of Chapter 3.5 (commencing with Section 11340)
11 of Part 1 of Division 3 of the Government Code, including those
12 listed in paragraph (1) of subdivision (c).

13 SEC. 86. Section 220 of the Financial Code is amended and
14 renumbered to read:

15 ~~220.~~

16 333. The powers of supervision and examination of all licensees
17 are vested in the commissioner.

18 SEC. 87. Section 221 of the Financial Code is amended and
19 renumbered to read:

20 ~~221.~~

21 334. The commissioner may promulgate or waive such rules
22 and regulations as may be reasonable or necessary to carry out his
23 or her duties and responsibilities.

24 SEC. 88. Section 222 of the Financial Code is amended and
25 renumbered to read:

26 ~~222.~~

27 335. (a) The commissioner, whenever in his or her opinion
28 such action is necessary or appropriate to carry out his or her duties,
29 may call a meeting of the board of directors of a licensee.

30 (b) A meeting of the board of a licensee called by the
31 commissioner shall be held upon four days' notice by first class
32 mail or 24 hours' notice delivered personally or by telephone. The
33 notice shall be given by the commissioner or, if the commissioner
34 so orders, by an officer of the licensee.

35 (c) A meeting of the board of a licensee called by the
36 commissioner shall be held at a place within this state as may be
37 designated by the commissioner and specified in the notice of the
38 meeting.

39 (d) The expenses of a meeting of the board of a licensee called
40 by the commissioner shall be paid by the licensee.

1 SEC. 89. Section 223 of the Financial Code is amended and
2 renumbered to read:

3 ~~223.~~

4 336. The commissioner may, at any time, require a licensee to
5 write down any asset held by the licensee to a valuation that will
6 represent the asset's then fair market value.

7 SEC. 90. The heading of Article 3 (commencing with Section
8 230) of Chapter 2 of Division 1 of the Financial Code is repealed.

9

10 ~~Article 3. Deputies and Employees~~

11

12 SEC. 91. Section 230 of the Financial Code is amended and
13 renumbered to read:

14 ~~230.~~

15 350. The commissioner shall appoint a chief deputy who holds
16 office at the pleasure of the commissioner. The annual salary of
17 the chief deputy shall be fixed by the commissioner with the
18 approval of the Director of Finance. The chief deputy shall have
19 the same qualifications as the commissioner. The commissioner
20 shall also appoint two deputies, one to serve in the City and County
21 of San Francisco and one to serve in the City of Los Angeles.

22 SEC. 92. Section 230.5 of the Financial Code is amended and
23 renumbered to read:

24 ~~230.5.~~

25 351. The Chief Officer of the Division of Credit Unions is the
26 Deputy Commissioner of Financial Institutions for the Division
27 of Credit Unions. The Deputy Commissioner of Financial
28 Institutions for the Division of Credit Unions shall administer the
29 laws of this state relating to credit unions or the credit union
30 business under the direction of the commissioner. The Deputy
31 Commissioner of Financial Institutions for the Division of Credit
32 Unions shall be appointed by the Governor and shall hold office
33 at the pleasure of the Governor. The Deputy Commissioner of
34 Financial Institutions shall receive an annual salary as fixed by the
35 Governor.

36 SEC. 93. Section 231 of the Financial Code is amended and
37 renumbered to read:

38 ~~231.~~

39 352. The commissioner may employ deputies in addition to
40 the chief deputy, and examiners, appraisers, technical assistants,

1 investigators, administrative assistants, clerks, and other employees
 2 that he or she may need to discharge in a proper manner the duties
 3 imposed upon him or her by law. He or she shall prescribe their
 4 duties and fix their compensation in accordance with classifications
 5 made by the State Personnel Board. The commissioner may also,
 6 at those times and on those terms as may be approved by the
 7 Governor, employ those attorneys as he or she may need.

8 SEC. 94. Section 232 of the Financial Code is amended and
 9 renumbered to read:

10 ~~232.~~

11 353. Before entering upon the duties of his office each deputy
 12 and examiner shall take and subscribe to the constitutional oath
 13 of office and file the same with the Secretary of State.

14 SEC. 95. Section 233 of the Financial Code is amended and
 15 renumbered to read:

16 ~~233.~~

17 354. The commissioner may require, at any time, of any deputy,
 18 examiner, or other employee of the department, an official bond
 19 in such amount as the commissioner may deem necessary. The
 20 premium for bonds required by the commissioner shall be an
 21 expense of the department.

22 SEC. 96. Section 234 of the Financial Code is amended and
 23 renumbered to read:

24 ~~234.~~

25 355. Neither the commissioner nor any deputy or employee of
 26 the department shall do or be any of the following with respect to
 27 any bank, savings association, credit union, or industrial loan
 28 company supervised by the department:

29 (a) Be indebted, directly or indirectly, as borrower, endorser,
 30 surety, or guarantor to any such bank, savings association, credit
 31 union, or industrial loan company.

32 (b) Be an officer, director, or employee of any such bank,
 33 savings association, credit union, or industrial loan company.

34 (c) Own or deal in directly or indirectly, the shares or obligations
 35 of any such bank, savings association, credit union, or industrial
 36 loan company.

37 (d) Be interested in or, directly or indirectly, receive from any
 38 such bank, savings association, credit union, or industrial loan
 39 company or any officer, director, or employee thereof, any salary,
 40 fee, compensation, or other valuable thing by way of gift, credit,

1 compensation for services, or otherwise. However, this subdivision
2 does not prohibit any person from being interested in or directly
3 or indirectly receiving (1) anything which is expressly excluded
4 from a definition of “gift” or “honorarium” in the Political Reform
5 Act of 1974 (Title 9 (commencing with Section 81000) of the
6 Government Code) or in regulations issued under the Political
7 Reform Act of 1974 by the Fair Political Practices Commission
8 or (2) anything which, if received by the commissioner, would
9 constitute a gift or honorarium within the meaning of the Political
10 Reform Act of 1974 or regulations issued under the Political
11 Reform Act of 1974 by the Fair Political Practices Commission
12 but which the commissioner would not be prohibited from
13 receiving under the Political Reform Act of 1974 or regulations
14 issued under the Political Reform Act of 1974 by the Fair Political
15 Practices Commission.

16 (e) Be interested in or engage in the negotiation of any loan to,
17 obligation of, or accommodation for another person to or with any
18 such bank, savings association, credit union, or industrial loan
19 company.

20 Notwithstanding the foregoing the commissioner and any deputy
21 or employee may have and maintain one or more deposit or similar
22 accounts in any bank, savings association, credit union, or industrial
23 loan company in this state and may maintain with any bank, savings
24 association, credit union, or industrial loan company in this state
25 a loan which was not obtained in violation of this section if the
26 person reports the loan in writing to the department within 30 days
27 after the person commences his or her term of appointment or
28 employment with the department and if the loan is not renewed,
29 renegotiated, extended, or otherwise modified on or after July 1,
30 1997.

31 A violation of this section by any person shall constitute
32 sufficient grounds for his or her removal or discharge.

33 SEC. 97. Section 235 of the Financial Code is amended and
34 renumbered to read:

35 ~~235.~~

36 356. If the commissioner is unable to perform his or her duties
37 for more than 30 consecutive days or if the office of the
38 commissioner becomes vacant, the chief deputy shall have all the
39 powers and duties of the commissioner until the return or recovery
40 of the commissioner, or, in case of a vacancy, until a new

1 commissioner is appointed by the Governor and qualifies to hold
2 office.

3 SEC. 98. Section 236 of the Financial Code is amended and
4 renumbered to read:

5 ~~236.~~

6 357. If a deputy commissioner or any examiner has knowledge
7 of the insolvency or unsafe condition of any licensee and willfully
8 fails to report that fact to the commissioner in writing, he or she
9 is guilty of a felony.

10 SEC. 99. The heading of Article 4 (commencing with Section
11 250) of Chapter 2 of Division 1 of the Financial Code is repealed.

12

~~Article 4. Administration of Department~~

13

14
15 SEC. 100. The heading of Chapter 2 (commencing with Section
16 250) is added to Division 1 of the Financial Code, to read:

17

CHAPTER 2. TRANSITION PROVISIONS

18

19

20 SEC. 101. Section 250 of the Financial Code is amended and
21 renumbered to read:

22 ~~250.~~

23 370. The commissioner may have an office in the City of
24 Sacramento, the City of Los Angeles, the City of San Diego, the
25 City and County of San Francisco, or any other location in the
26 state that he or she considers appropriate. The commissioner shall
27 provide at the expense of the department such office space,
28 furniture, and equipment as may be necessary or convenient for
29 the transaction of the business of the department.

30 SEC. 102. Section 250.5 of the Financial Code is amended and
31 renumbered to read:

32 ~~250.5.~~

33 371. There is in the Department of Financial Institutions, the
34 Division of Credit Unions. The Division of Credit Unions has
35 charge of the execution of the laws of this state relating to credit
36 unions and to the credit union business.

37 SEC. 103. Section 251 of the Financial Code is amended and
38 renumbered to read:

1 ~~251.~~

2 372. The department may expend moneys in accordance with
3 law for the necessary travel expenses of officers and employees
4 of the department while traveling in the line of their duties either
5 within or without the State.

6 SEC. 104. Section 252 of the Financial Code is amended and
7 renumbered to read:

8 ~~252.~~

9 373. The commissioner shall adopt and keep an official seal.
10 Papers executed by the commissioner in his or her official capacity
11 pursuant to law and bearing the seal, or copies thereof certified by
12 him or her, shall be received in evidence in like manner as the
13 original and may be recorded in the same manner and with the
14 same effect as a deed regularly acknowledged.

15 SEC. 105. Section 253 of the Financial Code is amended and
16 renumbered to read:

17 ~~253.~~

18 374. (a) Whenever it is necessary for the commissioner to
19 approve any instrument and to affix his or her official seal thereto,
20 the commissioner shall charge a fee of twenty-five dollars (\$25)
21 therefor.

22 (b) Whenever it is proper for the department to furnish a copy
23 of any paper that has been filed therein and to certify to the paper,
24 the commissioner may charge twenty-five cents (\$0.25) for each
25 page copied.

26 (c) Whenever the commissioner is required or requested to
27 certify copies of documents, the commissioner may charge a fee
28 of twenty-five dollars (\$25) for certifying the copied documents
29 and for affixing his or her official seal.

30 SEC. 106. Section 255 of the Financial Code is amended and
31 renumbered to read:

32 ~~255.~~

33 375. Official reports made by the commissioner and verified
34 reports of an examination made by the commissioner, exclusively
35 or in conjunction with or with assistance from any agency of the
36 United States, of a state of the United States, or of a foreign nation
37 are prima facie evidence of the facts stated in the reports for all
38 purposes.

39 SEC. 107. Section 258 of the Financial Code is amended and
40 renumbered to read:

1 258.

2 376. At least once each month, the commissioner shall issue
3 and disseminate as the commissioner deems appropriate a bulletin
4 containing the following information:

5 (a) Information regarding any of the following actions taken
6 since issuance of the previous bulletin:

7 (1) The filing, approval, or denial under Chapter 3 (commencing
8 with Section 350) of an application for authority to organize a
9 California state bank, or the issuance under Chapter 3 of a
10 certificate of authority to a California state bank.

11 (2) The filing, approval, or denial under Article 1 (commencing
12 with Section 5400) of Chapter 2 of Division 2 of an application
13 for the issuance of an organizing permit for the organization of a
14 California savings association, or for the issuance under Article 2
15 (commencing with Section 5500) of Chapter 2 of Division 2 of a
16 certificate of authority to a California savings association.

17 (3) The filing, approval, or denial under Article 2 (commencing
18 with Section 14150) of Chapter 2 of Division 5 of an application
19 for a certificate to act as a credit union, or the issuance of a
20 certificate to engage in the business of a credit union.

21 (4) The filing, approval, or denial under Chapter 14
22 (commencing with Section 1800), ~~Chapter 14A (commencing with~~
23 ~~Section 1851)~~, Division 7 (commencing with Section 18000), *or*
24 Division 15 (commencing with Section 31000), ~~or Division 16~~
25 ~~(commencing with Section 33000)~~ of an application for a license
26 to engage in business, or the issuance under any of those laws of
27 a license to engage in business.

28 (5) The filing, approval, or denial under Chapter 13.5
29 (commencing with Section 1700) of an application by a foreign
30 (other nation) bank to establish its first office of any particular
31 class (as determined under Section 1701) in this state, or the
32 issuance under that chapter of a license in connection with the
33 establishment of such an office.

34 (6) The filing, approval, or denial under Division 1.5
35 (commencing with Section 4800) of an application for approval
36 of a sale, merger, or conversion.

37 (7) The filing, approval, or denial under Article 6 (commencing
38 with Section 5700) of Chapter 2 of Division 2 of an application
39 for approval of a conversion of a federal savings association into
40 a state savings association, or the filing of a federal charter of a

1 state savings association that has converted to a federal savings
2 association.

3 (8) The filing, approval, or denial under Article 7 (commencing
4 with Section 5750) of Chapter 2 of Division 2 of an application
5 for approval of a reorganization, merger, consolidation, or transfer
6 of assets of a state savings association.

7 (9) The filing, approval, or denial under Chapter 9 (commencing
8 with Section 15200) of Division 5 of an application for approval
9 of a merger, dissolution, or conversion of a credit union.

10 (10) The taking of possession of the property and business of a
11 California state bank, savings association, credit union, or person
12 licensed by the commissioner under any of the laws cited in
13 paragraph (2).

14 (b) Other information as the commissioner deems appropriate.

15 SEC. 108. Section 259 of the Financial Code is amended and
16 renumbered to read:

17 ~~259.~~

18 377. Notwithstanding any other provision of this code,
19 whenever any provision of this division requires the pledge of
20 securities to be deposited with the Treasurer, to insure the
21 performance of any act or duty, the securities after first being
22 approved by the commissioner and upon the written order of the
23 commissioner, shall be deposited with the Treasurer. The Treasurer,
24 with the consent of the owner of the securities deposited or to be
25 deposited with the Treasurer, may place the securities in the
26 custody of a qualified trust company or bank in the same manner
27 and under the same conditions provided in Article 3 (commencing
28 with Section 16550) of Chapter 4 of Part 2 of Division 4 of Title
29 2 of the Government Code.

30 SEC. 109. Section 260 of the Financial Code is amended and
31 renumbered to read:

32 ~~260.~~

33 378. Whenever the commissioner is notified of or discovers a
34 violation of the state law punishable by criminal penalties, he or
35 she shall promptly advise the Attorney General.

36 SEC. 110. Section 261 of the Financial Code is amended and
37 renumbered to read:

38 ~~261.~~

39 379. (a) For the purposes of this section the following
40 definitions shall apply:

1 (1) “Control” has the meaning set forth in subdivision (b) of
2 Section 700. “Control” also means the ownership of a subject
3 person by means of sole proprietorship, partnership, or by any
4 other similar means.

5 (2) “Controlling person” means a person who, directly or
6 indirectly, controls a subject person.

7 (3) “Subject person” means any of the following:

8 (A) A commercial bank, industrial bank, trust company, savings
9 association, or credit union incorporated under the laws of this
10 state.

11 (B) A person licensed by the commissioner under ~~Chapter 14~~
12 ~~(commencing with Section 1800)~~ *Division 1.2 (commencing with*
13 *Section 2000)* to receive money for transmission to foreign
14 countries.

15 (C) A person authorized by the commissioner pursuant to
16 ~~Section 1803 2004~~ to act as an agent of a person licensed by the
17 commissioner to receive money for transmission to foreign
18 countries.

19 (D) A person licensed by the commissioner pursuant to Division
20 7 (commencing with Section 18000) to transact business as a
21 premium finance agency.

22 (E) A person licensed by the commissioner pursuant to Division
23 15 (commencing with Section 31000) to transact business as a
24 business and industrial development corporation.

25 (F) A person licensed by the commissioner pursuant to Division
26 ~~16 (commencing with Section 33000)~~ *1.2 (commencing with*
27 *Section 2000)* to engage in the business of selling payment
28 instruments in this state issued by the licensee.

29 (G) A corporation incorporated under the laws of this state for
30 the purpose of engaging in, or that is authorized by the
31 commissioner to engage in, business pursuant to Article 1
32 ~~(commencing with Section 3500) of Chapter 19 1850)~~ *of Chapter*
33 *21 of Division 1.1.*

34 (H) A foreign corporation that is licensed by the commissioner
35 pursuant to Article 1 ~~(commencing with Section 3500) of Chapter~~
36 ~~19 1850)~~ *of Chapter 21 of Division 1.1* to maintain an office in
37 this state and to transact at that office business pursuant to Article
38 1 ~~(commencing with Section 3500) of Chapter 19 1850)~~ *of Chapter*
39 *21 of Division 1.1.*

1 (b) Notwithstanding any other provision of law, and subject to
2 subdivision (c), the commissioner may deliver, or cause to be
3 delivered, to local, state, or federal law enforcement agencies
4 fingerprints taken of any of the following:

- 5 (1) An applicant for employment with the department.
- 6 (2) A person licensed, or proposed to be licensed, as a subject
7 person.
- 8 (3) A director, officer, or employee of an existing or proposed
9 subject person.
- 10 (4) An existing or proposed controlling person of a subject
11 person.
- 12 (5) A director, officer, or employee of an existing or proposed
13 controlling person of a subject person.
- 14 (6) A director, officer, or employee of an existing or proposed
15 affiliate of a subject person.

16 (c) The authorization in subdivision (b) may only be used by
17 the department for the purpose of obtaining information regarding
18 an individual as to the existence and nature of the criminal record,
19 if any, of that individual relating to convictions, and to any arrest
20 for which the individual is released on bail or on his or her own
21 recognizance pending trial, for the commission or attempted
22 commission of a crime involving robbery, burglary, theft,
23 embezzlement, fraud, forgery, bookmaking, receiving stolen
24 property, counterfeiting, or involving checks or credit cards or
25 using computers.

26 (d) No request shall be submitted pursuant to this section without
27 the written consent of the person affected.

28 (e) Any criminal history information obtained pursuant to this
29 section shall be confidential and no recipient shall disclose its
30 contents other than for the purpose for which it was acquired.

31 SEC. 111. Section 262 of the Financial Code is amended and
32 renumbered to read:

33 ~~262.~~

34 380. (a) The commissioner shall inform the Commissioner of
35 Corporations and other appropriate state and federal officials
36 charged with the regulation of financial institutions or securities
37 transactions of any enforcement actions, including, but not limited
38 to, civil or criminal actions, cease and desist orders, license or
39 authorization suspensions or revocations, or an open investigation.

1 (b) The commissioner shall inform the Commissioner of
 2 Corporations and other appropriate state and federal officials
 3 charged with the regulation of financial institutions or securities
 4 transactions if it appears that any bank, bank holding company,
 5 savings association, savings and loan holding company, credit
 6 union, industrial loan company, industrial loan holding company,
 7 or other licensee of the department is conducting its business in a
 8 fraudulent, unsafe, unsound, or injurious manner, or has suffered
 9 or will suffer substantial financial loss or damage, and it appears
 10 to the commissioner that the information is relevant to the
 11 regulatory activities of the other agency.

12 SEC. 112. Section 263 of the Financial Code is amended and
 13 renumbered to read:

14 ~~263.~~

15 ~~381.~~ Chapter 5 (commencing with Section 11500) of Part 1 of
 16 Division 3 of Title 2 of the Government Code does not apply to
 17 hearings conducted by the department.

18 SEC. 113. The heading of Article 4.5 (commencing with
 19 Section 265) of Chapter 2 of Division 1 of the Financial Code is
 20 repealed.

21

22 ~~Article 4.5. Financial Institutions Fund~~

23

24 SEC. 114. Section 265 of the Financial Code is amended and
 25 renumbered to read:

26 ~~265.~~

27 ~~400.~~ As of the operative date of this section, there is established
 28 a Financial Institutions Fund in the State Treasury. Except as
 29 otherwise provided in Division 5 (commencing with Section
 30 14000), all money collected or received by the commissioner under
 31 this code shall be deposited with the Treasurer to the credit of the
 32 Financial Institutions Fund.

33 SEC. 115. The heading of Article 5 (commencing with Section
 34 270) of Chapter 2 of Division 1 of the Financial Code is repealed.

35

36 ~~Article 5. State Banking Account~~

37

38 SEC. 116. Section 270 of the Financial Code is amended and
 39 renumbered to read:

1 ~~270.~~

2 405. (a) The commissioner shall annually collect pro rata from
3 the banks and trust companies under the supervision of the
4 department a fund in amount sufficient in the commissioner's
5 judgment to meet the expenses of the department in administering
6 laws relating to banks or trust companies or to the banking or trust
7 business that are not otherwise provided for and to provide a
8 reasonable reserve for contingencies.

9 (b) The amount of the annual assessment for the fund on any
10 bank or trust company shall not be less than five thousand dollars
11 (\$5,000). Above that minimum amount, except as otherwise
12 provided subdivision (c), the annual assessment shall not exceed
13 the sum of the products of a base assessment rate, or percentage
14 thereof, and segregated portions of its total resources, according
15 to the following table:

17 Segregated Total Resources	Percentage of Base
18 (In Millions or Fractions Thereof)	Assessment Rate
19 First \$2	100.0
20 Next \$18	50.0
21 Next \$80	12.0
22 Next \$100	6.25
23 Next \$800	6.0
24 Next \$1,000	4.0
25 Next \$4,000	3.5
26 Next \$14,000	3.0
27 Next \$20,000	2.5
28 Excess over \$40,000	1.5

29
30 (c) (1) For purposes of determining the annual assessment on
31 banks and trust companies that have one or more foreign (other
32 state) branch offices, the resources of foreign (other state) branch
33 offices shall be excluded from total resources, except that the
34 commissioner may order the resources of foreign (other state)
35 branch offices to be included in total resources if and to the extent
36 that it is necessary in the commissioner's judgment to meet the
37 expenses of the department on account of foreign (other state)
38 branch offices and a reasonable reserve for contingencies.

39 (2) If the commissioner finds that a bank or trust company
40 allocated any resource to a foreign (other state) branch office for

1 the purpose, in whole or in part, of reducing its annual assessment,
2 the commissioner may, for purposes of calculating the annual
3 assessment on the bank or trust company, reallocate the resource
4 to the bank’s or trust company’s head office.

5 (d) The base assessment rate shall be set by the commissioner
6 from time to time at the commissioner’s discretion, not to exceed
7 two dollars and twenty cents (\$2.20) per one thousand dollars
8 (\$1,000) of total resources.

9 SEC. 117. Section 271 of the Financial Code is amended and
10 renumbered to read:

11 ~~271.~~
12 406. The commissioner shall annually collect from national
13 banking associations and foreign (other state) banks operating trust
14 departments in this state an annual assessment to meet expenses
15 of the department, not exceeding one one-hundredth of 1 percent
16 of the amount required by law to be deposited with the Treasurer
17 as surety for the faithful performance and execution of all court
18 and private trusts accepted by them.

19 SEC. 118. Section 271.5 of the Financial Code is amended and
20 renumbered to read:

21 ~~271.5.~~
22 407. Whenever the commissioner makes an assessment
23 pursuant to Section ~~270~~ 405 or ~~271~~ 406, the commissioner shall
24 fix the date when the assessment is due and payable and shall mail
25 or otherwise deliver to each bank and trust company assessed an
26 invoice showing the amount of its assessment and the date when
27 the assessment is due and payable.

28 SEC. 119. Section 272 of the Financial Code is amended and
29 renumbered to read:

30 ~~272.~~
31 408. The commissioner, in addition to the annual assessment,
32 shall collect from each bank authorized to engage in the trust
33 business, to defray the cost of examination, a fee not to exceed
34 seventy-five dollars (\$75) per hour for each examiner necessarily
35 engaged in the examination of the trust company, trust business,
36 or trust department. The commissioner shall assess the fee upon
37 completion of the examination of the trust company or trust
38 business and shall mail or otherwise deliver an invoice for the fee
39 to the institution. The institution shall pay the fee within 30 days
40 after the invoice is mailed or otherwise delivered to it.

1 SEC. 120. Section 273 of the Financial Code is amended and
2 renumbered to read:

3 ~~273.~~

4 409. If any bank or trust company fails to make timely payment
5 of any assessment made pursuant to Section ~~270, 271, or 272~~ 405,
6 406, or 408, the commissioner may, in the commissioner's sole
7 discretion, (a) cancel the certificate of authority of the bank or trust
8 company to conduct a banking or trust business or (b) levy a civil
9 penalty pursuant to Section ~~216.3~~ 329.

10 SEC. 121. Section 273.5 of the Financial Code is amended and
11 renumbered to read:

12 ~~273.5.~~

13 410. As of the operative date of this section:

14 (a) The State Banking Fund is converted into a separate account
15 in the Financial Institutions Fund and designated as the State
16 Banking Account.

17 (b) All moneys and other assets and all liabilities of the State
18 Banking Fund shall be transferred to the State Banking Account.

19 SEC. 122. Section 274 of the Financial Code is amended and
20 renumbered to read:

21 ~~274.~~

22 411. Except as otherwise provided in Section 276 or 277, all
23 salaries and other expenses of the department, other than those
24 incurred in administering laws relating to savings associations or
25 the savings association business, credit unions or the credit union
26 business, industrial banks, the industrial banking business,
27 insurance premium finance agencies, the insurance premium
28 finance business, or Article 2 (commencing with Section 53630)
29 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
30 Code, shall be paid out of the State Banking Account in the
31 Financial Institutions Fund. Salaries and other expenses incurred
32 in the liquidation or conservation of any bank (other than an
33 industrial bank) or of any person licensed under ~~Chapter 14~~
34 ~~(commencing with Section 1800), Chapter 14A (commencing with~~
35 ~~Section 1851), Division 1.2 (commencing with Section 2000) or~~
36 ~~Division 15 (commencing with Section 31000), or Division 16~~
37 ~~(commencing with Section 33000), including the compensation~~
38 of employees of the department to the extent that they are engaged
39 in that liquidation or conservation, if possible, and if advanced
40 from the State Banking Account in the Financial Institutions Fund,

1 shall constitute a first charge against the assets of the bank or
 2 licensee, as the case may be. Salaries and other expenses incurred
 3 in the liquidation or conservation of any industrial bank, including
 4 the compensation of employees of the department to the extent
 5 that they are engaged in that liquidation or conservation, if possible,
 6 and if advanced from the Industrial Bank Account in the Financial
 7 Institutions Fund, shall constitute a first charge against the assets
 8 of the industrial bank.

9 SEC. 123. Section 275 of the Financial Code is amended and
 10 renumbered to read:

11 ~~275.~~

12 412. The commissioner shall deliver all moneys received or
 13 collected by the commissioner under Section ~~270, 271, or 272~~ 405,
 14 406, or 408 or otherwise, other than moneys received or collected
 15 by the commissioner under laws relating to savings associations,
 16 the savings association business, credit unions, the credit union
 17 business, industrial banks, the industrial banking business,
 18 insurance premium finance agencies, the insurance premium
 19 finance business, or Article 2 (commencing with Section 53630)
 20 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
 21 Code, to the Treasurer, who shall deposit the moneys to the credit
 22 of the State Banking Account of the Financial Institutions Fund.

23 SEC. 124. Section 276 of the Financial Code is amended and
 24 renumbered to read:

25 ~~276.~~

26 413. (a) In this section, “assessment statute” means any statute
 27 that authorizes the commissioner to make or collect an assessment
 28 (other than a fine) on financial institutions, including the following:

29 (1) Sections ~~270 to 271.~~ 405 to 407, inclusive.

30 (2) Section ~~1801.1~~ 2042.

31 (3) Section 33302.

32 (4) Article 2 (commencing with Section 8030) of Chapter 7 of
 33 Division 2.

34 (5) Article 4 (commencing with Section 14350) of Chapter 3
 35 of Division 5.

36 (6) Section ~~1402~~ 1532.

37 (b) The commissioner may charge to and collect from the
 38 Financial Institutions Fund, the Credit Union Fund, each of the
 39 accounts included in the Financial Institutions Fund, and each of
 40 the programs included in the State Banking Account an amount

1 equal to the fund's, account's, or program's pro rata share of those
2 expenses of the department which, in the opinion of the
3 commissioner, it is not feasible to attribute to any single one of
4 the funds, accounts, or programs. The fund's, account's, or
5 program's pro rata share shall be determined and paid in the manner
6 and at the time ordered by the commissioner.

7 (c) The provisions of any assessment statute that authorize the
8 commissioner to make or collect an assessment for the purposes
9 specified in the assessment statute include authority for the
10 commissioner to make and collect an assessment for the additional
11 purpose of providing money in an amount that will, in the
12 commissioner's judgment, be sufficient to make payments that
13 may be required under subdivision (b).

14 SEC. 125. Section 277 of the Financial Code is amended and
15 renumbered to read:

16 ~~277.~~

17 414. Notwithstanding any other provision of this code or of
18 Section 53667 of the Government Code, the commissioner may,
19 at any time during a fiscal year, pay any expense of the department
20 from any of the following accounts and funds: the State Banking
21 Account, the Savings and Loan Account, the Industrial Bank
22 Account, the Financial Institutions Fund, the Credit Union Fund,
23 and the Local Agency Deposit Security Fund. However, if the
24 commissioner pays an expense of the department from an account
25 or fund from which the expense is not, except for this section,
26 permitted to be paid, the commissioner shall, as of a date within
27 that fiscal year, reimburse the account or fund from which the
28 expense was paid by making a transfer from the account or fund
29 from which the expense would have been permitted to be paid.

30 SEC. 126. The heading of Article 6 (commencing with Section
31 280) of Chapter 2 of Division 1 of the Financial Code is repealed.

32

33 ~~Article 6. General Operational Provisions~~

34

35 SEC. 127. Section 280 of the Financial Code is amended and
36 renumbered to read:

37 ~~280.~~

38 450. (a) In this section, "governmental agency" includes,
39 without limitation, any agency of this state, of any other state of
40 the United States, of the United States, or of any foreign nation.

1 (b) The commissioner may furnish information to a
2 governmental agency that regulates financial institutions.

3 (c) The commissioner may furnish to a governmental agency
4 that administers a loan guarantee or similar program, information
5 relating to a person who participates in the program.

6 (d) The commissioner may furnish to a governmental agency
7 that regulates business activities, other than the type described in
8 subdivision (b), information relating to any of the following:

9 (1) A suspected violation of a law administered by the agency.

10 (2) A person involved in an application to the agency for a
11 license, approval, or other authorization.

12 (e) The commissioner may furnish to a governmental agency
13 that is a law enforcement agency information relating to a suspected
14 crime.

15 (f) The commissioner may furnish information to any person
16 who provides share insurance or guaranty of the shares of a credit
17 union in accordance with Section 14858, 16004, or 16503.

18 (g) The commissioner may furnish confidential information
19 regarding a licensee to the directors, officers, employees, attorneys,
20 accountants, and consultants of that licensee in accordance with
21 Section ~~282~~ 452.

22 (h) This section does not prescribe the only circumstances under
23 which the commissioner may furnish information.

24 SEC. 128. Section 281 of the Financial Code is amended and
25 renumbered to read:

26 ~~281.~~

27 451. With the prior approval of the commissioner, a foreign
28 (other state) or foreign (other nation) financial institutions
29 regulatory agency may examine a licensee and any of its offices,
30 provided that the agency has a regulatory interest in the licensee.
31 Any regulatory agency approved by the commissioner under this
32 section shall be considered a supervisory agency under subdivision
33 (f) of Section 7480 of the Government Code.

34 SEC. 129. Section 282 of the Financial Code is amended and
35 renumbered to read:

36 ~~282.~~

37 452. (a) Directors, officers, employees, attorneys, accountants,
38 or consultants of a licensee may not disclose in any manner to any
39 person confidential information regarding the licensee received
40 from the commissioner. The prohibition in this section shall not

1 apply to disclosures of confidential information by directors,
2 officers, employees, attorneys, accountants, or consultants of the
3 licensee:

4 (1) Made pursuant to a subpoena or other discovery proceeding.

5 (2) Made to any state or federal prosecuting or investigatory
6 agency or authority.

7 (3) Made to any state, federal, or foreign (other nation) financial
8 institutions regulatory agency that has a direct regulatory interest
9 in the licensee.

10 (4) Made to any state or federal taxing agency.

11 (5) Made as otherwise required by law.

12 (6) Made as otherwise authorized by the commissioner in
13 writing.

14 (b) Any director, officer, employee, attorney, accountant, or
15 consultant that discloses confidential information in a manner other
16 than allowed by this section shall be liable for a civil penalty not
17 to exceed fifty thousand dollars (\$50,000). The commissioner may
18 impose a penalty under this section in accordance with the
19 procedures set forth in Section ~~216.3~~ 329.

20 (c) The prohibition set forth in subdivision (a) shall not apply
21 to any discussion, analysis, or other use of confidential information
22 provided by the commissioner that occurs between directors,
23 officers, employees, attorneys, accountants, or consultants of the
24 licensee.

25 SEC. 130. Section 283 of the Financial Code is amended and
26 renumbered to read:

27 ~~283.~~

28 453. Every licensee shall make and file with the commissioner
29 whenever required by him or her a report in any form as the
30 commissioner may prescribe and verified in any manner the
31 commissioner prescribes, showing its financial condition and any
32 other information as the commissioner may require at the close of
33 business on any day designated by him or her. Any verification
34 shall state that each of the officers making the verification has a
35 personal knowledge of the matters in the report and that each of
36 them believes that each statement in the report is true.

37 SEC. 131. Section 284 of the Financial Code is amended and
38 renumbered to read:

1 ~~284.~~

2 454. The commissioner shall call for the report specified in
3 Section 283 from all licensees at least four times each year upon
4 dates selected by the commissioner.

5 SEC. 132. Section 285 of the Financial Code is amended and
6 renumbered to read:

7 ~~285.~~

8 455. The commissioner may at any time require any licensee
9 to make and file with him or her a special report furnishing any
10 information as the commissioner may specify when necessary to
11 inform him or her fully of the actual financial condition and all
12 other affairs of the licensee. The reports shall be in the form and
13 filed on a date prescribed by the commissioner and shall, if required
14 by the commissioner, be verified in any manner that he or she
15 prescribes.

16 SEC. 133. Section 286 of the Financial Code is amended and
17 renumbered to read:

18 ~~286.~~

19 456. Every licensee shall keep its corporate records, financial
20 records, and books of account in words and figures of the English
21 language and in form satisfactory to the commissioner.

22 SEC. 134. Section 287 of the Financial Code is amended and
23 renumbered to read:

24 ~~287.~~

25 457. Every licensee shall notify the commissioner of any
26 change in the following officers of the licensee, to the extent that
27 those officers exist within the licensee: chairperson, chief executive
28 officer, president, general manager, managing officer, chief
29 financial officer, or chief credit officer.

30 SEC. 135. Section 288 of the Financial Code is amended and
31 renumbered to read:

32 ~~288.~~

33 458. (a) Each report required under this ~~article~~ *chapter*, or
34 under any other provision of law administered by the
35 commissioner, shall be filed with the commissioner at the time
36 that the commissioner may require. If any licensee fails to make
37 any required report at the time specified by the commissioner or
38 fails to include therein any matter required by this ~~article~~ *chapter*,
39 any provision of law administered by the commissioner, or by the
40 commissioner, it shall be liable to the people of this state in the

1 sum of not more than one hundred dollars (\$100) for each day that
2 the report is delayed or withheld by the failure or neglect of the
3 licensee.

4 (b) The provisions of Section ~~216.3~~ 329 shall not apply to this
5 section.

6 SEC. 136. Section 289 of the Financial Code is amended and
7 renumbered to read:

8 ~~289.~~

9 459. (a) Every licensee shall file with the commissioner one
10 copy of all material filed by the licensee with any applicable federal
11 financial institutions regulatory agency, law enforcement agency,
12 or other federal agency that is required to be filed by law or order
13 of the agency.

14 (b) Each copy required to be filed pursuant to subdivision (a)
15 shall be filed with the commissioner on or before the date upon
16 which the original is filed with the federal regulatory agency and
17 shall be available for inspection by the public except to the extent
18 the information contained therein is accorded confidential treatment
19 under federal law or regulations. That material shall be open for
20 inspection by the Attorney General.

21 SEC. 137. Section 290 of the Financial Code is amended and
22 renumbered to read:

23 ~~290.~~

24 460. Any person intentionally making a false statement in any
25 report required to be rendered under this article or other provision
26 of law administered by the commissioner is guilty of perjury.

27 SEC. 138. Section 291 of the Financial Code is amended and
28 renumbered to read:

29 ~~291.~~

30 461. Any debt due a licensee on which interest is past due and
31 unpaid for the period of one year shall be charged off, unless the
32 debt is well secured or is in process of collection.

33 SEC. 139. Section 292 of the Financial Code is amended and
34 renumbered to read:

35 ~~292.~~

36 462. Any person that provides services to any licensee, at the
37 request of the commissioner, shall submit to an examination by
38 the commissioner. Should the commissioner deem it necessary or
39 desirable that an examination be made of a person, the examination
40 shall be made at the expense of the person examined. If the person

1 refuses to permit an examination to be made, the commissioner
2 may order every licensee receiving services from that person to
3 discontinue receiving those services or otherwise conducting
4 business with that person, and the licensees shall comply with that
5 order.

6 SEC. 140. Section 292.5 of the Financial Code is amended and
7 renumbered to read:

8 ~~292.5.~~

9 463. (a) All references in this code and the Corporations Code
10 to financial statements, balance sheets, income statements, and
11 statements of changes in financial position of a licensee, and all
12 references to assets, liabilities, earnings, retained earnings,
13 shareholders' equity, net worth, and similar accounting items of
14 a licensee, mean those financial statements or those items prepared
15 or determined in conformity with generally accepted accounting
16 principles then applicable in the United States, fairly presenting
17 in conformity with generally accepted accounting principles
18 accepted in the United States the matters which they purport to
19 present, subject to any specific accounting treatment required by
20 any applicable provision of the Corporations Code, this code, or
21 any regulation, order issued by the commissioner, or agreement
22 entered into by the commissioner and a licensee.

23 (b) The commissioner may, by regulation or order, require that
24 any financial statement or accounting item of a licensee be prepared
25 or determined in a manner other than in conformity with generally
26 accepted accounting principles accepted in the United States if the
27 commissioner finds that such other manner is necessary or
28 appropriate to carry out the purposes or provisions of this code.

29 SEC. 141. Section 293 of the Financial Code is amended and
30 renumbered to read:

31 ~~293.~~

32 464. (a) An officer of a financial institution, within the
33 meaning of Section 1101(1) of the federal Right to Financial
34 Privacy Act of 1978 (12 U.S.C. Sec. 3401(1)), shall furnish the
35 State Department of Health Care Services or its designee with
36 information in the possession of the bank or company regarding
37 the assets of any person who is applying for, or is receiving
38 assistance or benefits from, the State Department of Health Care
39 Services and has provided authorization pursuant to Section
40 14013.5 of the Welfare and Institutions Code.

1 (b) The obtaining of financial records by the State Department
2 of Health Care Services, or its designee, pursuant to this section
3 shall be subject to the cost reimbursement requirements of Section
4 1115(a) of the federal Right to Financial Privacy Act of 1978 (12
5 U.S.C. Sec. 3415(a)) and shall be at no cost to the applicant,
6 recipient, or any other person, as defined in paragraph (3) of
7 subdivision (c) of Section 14013.5 of the Welfare and Institutions
8 Code.

9 (c) An authorization obtained by the State Department of Health
10 Care Services, or its designee, under Section 14013.5 of the
11 Welfare and Institutions Code shall be considered as meeting the
12 requirements of Section 1103(a) of the federal Right to Financial
13 Privacy Act of 1978 (12 U.S.C. Sec. 3403(a)) and, notwithstanding
14 Section 1104(a) of the federal Right to Financial Privacy Act of
15 1978 (12 U.S.C. Sec. 3404(a)), need not be furnished to the
16 financial institution.

17 (d) The certification requirements of Section 1103(b) of the
18 federal Right to Financial Privacy Act of 1978 (12 U.S.C. Sec.
19 3403(b)) shall not apply to requests by the State Department of
20 Health Care Services, or its designee, pursuant to an authorization
21 provided under Section 14013.5 of the Welfare and Institutions
22 Code.

23 (e) A request by the State Department of Health Care Services,
24 or its designee, pursuant to an authorization provided under Section
25 14013.5 of the Welfare and Institutions Code shall be deemed to
26 meet the requirements of Section 1104(a)(3) of the federal Right
27 to Financial Privacy Act of 1978 (12 U.S.C. Sec. 3404(a)(3)) and
28 of Section 1102 of the act (12 U.S.C. Sec. 3402), relating to a
29 reasonable description of financial records.

30 SEC. 142. The heading of Article 7 (commencing with Section
31 295) of Chapter 2 of Division 1 of the Financial Code is repealed.

32

33

~~Article 7. Enforcement~~

34

35 SEC. 143. Section 295 of the Financial Code is amended and
36 renumbered to read:

37

~~295.~~

38

550. In this article:

- 1 (a) “Appropriate licensee business” means the business that a
2 licensee may conduct in accordance with the charter or license
3 that the commissioner has issued to that licensee.
- 4 (b) “Customer” means a depositor of a bank, a member of a
5 credit union, or a customer of any other licensee.
- 6 (c) “Holding company” shall have the meaning set forth in
7 Section 3700.
- 8 (d) “Officer of a subject institution” means any director, officer,
9 official, or employee of the subject institution.
- 10 (e) “Person” means a subject institution or a subject person.
- 11 (f) “Subject institution” means any of the following:
- 12 (1) Licensee.
- 13 (2) Subsidiary of a licensee.
- 14 (3) Foreign (other state) or foreign (other nation) bank or credit
15 union that maintains an office in this state, with respect to any such
16 office other than a national bank or federal credit union.
- 17 (4) Any other person lawfully conducting the business of a bank
18 or credit union in this state other than a national bank or federal
19 credit union.
- 20 (g) “Subject person,” when used with respect to a subject
21 institution, means any of the following:
- 22 (1) Director, officer, employee, or agent of the subject
23 institution.
- 24 (2) Member, consultant, joint venture partner, or other person
25 that participates in the affairs of a subject institution.
- 26 (3) Independent contractor, including any attorney, appraiser,
27 or accountant, who knowingly or recklessly participates in any of
28 the following acts if the act caused or is likely to cause more than
29 a minimal financial loss to, or a significant adverse effect on, the
30 subject institution:
- 31 (A) A violation of any applicable law, regulation, or order.
- 32 (B) A breach of fiduciary duty.
- 33 (C) An unsafe or unsound act.
- 34 (h) “Violation” includes any act performed, alone or with other
35 persons, for or toward causing, bringing about, participating in,
36 counseling, aiding, or abetting a violation of any applicable statute,
37 regulation, provision of a written order issued by the commissioner,
38 or provision of a written agreement made between the
39 commissioner and a subject institution or subject person.

1 SEC. 144. Section 295.1 of the Financial Code is amended and
2 renumbered to read:

3 ~~295.1.~~

4 *551.* Any subject person who is entitled to a hearing pursuant
5 to this article may waive that right at any time. A waiver under
6 this section shall relieve the commissioner from having to issue a
7 formal notice of hearing that would otherwise be required by this
8 article.

9 SEC. 145. Section 295.2 of the Financial Code is amended and
10 renumbered to read:

11 ~~295.2.~~

12 *552.* (a) Within 30 days after an order is issued pursuant to
13 Section ~~297, 298.1, 299, 300.1, or 301.1~~ *567, 581, 582, 586, or*
14 *591*, or subdivision (c) of Section ~~300.2~~ *587*, the person to whom
15 the order is issued may file with the commissioner an application
16 for a hearing on the order.

17 (b) If the commissioner fails to commence the hearing within
18 15 business days after the application is filed with the
19 commissioner or within any longer period to which the person
20 subject to the order consents, the order shall be deemed rescinded.

21 (c) Within 30 days after the hearing, or within any longer period
22 to which the person consents, the commissioner shall affirm,
23 modify, or rescind the order. If the commissioner fails to affirm,
24 modify, or rescind the order within that time limit, the order shall
25 be deemed rescinded.

26 (d) The right to petition for judicial review of the order shall
27 not be affected by the failure of the person subject to the order to
28 apply to the commissioner for a hearing on the order pursuant to
29 subdivision (a).

30 SEC. 146. Section 295.3 of the Financial Code is amended and
31 renumbered to read:

32 ~~295.3.~~

33 *553.* In addition to any other action or requirement the
34 commissioner deems necessary or advisable, an order issued
35 pursuant to Section ~~297.1, 298, 298.1, 299, 300, 300.1, or 300.2~~
36 *567, 580, 581, 582, 585, or 587* may require the person subject to
37 the order to do any of the following:

38 (a) Make restitution or provide reimbursement, indemnification,
39 or guarantee against loss, if the subject institution, subject person,
40 or holding company was unjustly enriched by the action or

1 violation or if the action or violation involved a reckless disregard
2 for any provision of this division, of any regulation or order issued
3 under this division, of any other applicable law, or of any
4 agreement with the commissioner.

5 (b) Restrict the growth of the subject institution.

6 (c) Dispose of any loan or other asset.

7 (d) Correct violations of law.

8 (e) Employ qualified officers or employees, who may be subject
9 to approval of the commissioner.

10 (f) Limit the activities or functions of the subject institution,
11 subject person, or holding company.

12 SEC. 147. Section 295.4 of the Financial Code is amended and
13 renumbered to read:

14 ~~295.4.~~

15 554. If the commissioner takes possession of a subject
16 institution without a prior notice or hearing, or takes action against
17 a subject person without prior notice or hearing, the commissioner
18 shall, upon taking possession or taking that action, concurrently
19 provide to the subject institution or subject person a written order.
20 The order shall set forth the condition or conditions of the subject
21 institution or action or actions of the subject person that constitute
22 the basis or bases for the commissioner’s action. In any case where
23 the commissioner takes possession of a subject institution, the
24 commissioner shall establish, by clear evidence, the basis for his
25 or her action.

26 SEC. 148. Section 298 of the Financial Code is amended and
27 renumbered to read:

28 ~~298.~~

29 580. If, after notice and an opportunity to be heard, the
30 commissioner finds any of the factors set forth in subdivision (a)
31 or (b) with respect to any subject institution, subject person, or
32 any holding company, the commissioner may order the subject
33 institution, subject person, or holding company to cease and desist
34 from the act or violation:

35 (a) That the subject institution, subject person, or holding
36 company has engaged or participated, is engaging or participating,
37 or that there is reasonable cause to believe that the subject
38 institution, subject person, or holding company is about to engage
39 or participate, in any unsafe or unsound act with respect to the
40 business of the subject institution.

1 (b) That the subject institution, subject person, or holding
2 company has violated, is violating, or that there is reasonable cause
3 to believe that the subject institution, subject person, or holding
4 company is about to violate any:

5 (1) Provision of any division subject to the jurisdiction of the
6 commissioner.

7 (2) Provision of any regulation promulgated by, or subject to
8 the jurisdiction of, the commissioner.

9 (3) Provision of any other applicable law.

10 (4) Provision of any written agreement between the subject
11 institution, subject person, or holding company, and the
12 commissioner.

13 SEC. 149. Section 298.1 of the Financial Code is amended and
14 renumbered to read:

15 ~~298.1.~~

16 581. If the commissioner finds that any of the factors set forth
17 in Section 298 is true with respect to any subject institution, subject
18 person, or holding company, and that the action, omission, or
19 violation is likely to have any of the consequences set forth in
20 subdivisions (a) to (d), inclusive, the commissioner may, without
21 any prior notice or opportunity to be heard, order the subject
22 institution or subject person to cease and desist from the following:

23 (a) Any act, omission, or violation that may cause the insolvency
24 of the subject institution.

25 (b) Any act, omission, or violation that may cause significant
26 dissipation of the assets or earnings of the subject institution.

27 (c) Any act, omission, or violation that may weaken the
28 condition of the subject institution.

29 (d) Any act, omission, or violation that may otherwise prejudice
30 the interests of the customers of the subject institution.

31 SEC. 150. Section 299 of the Financial Code is amended and
32 renumbered to read:

33 ~~299.~~

34 582. If the commissioner finds that a subject institution's books
35 or records are so incomplete or inaccurate that the commissioner
36 is unable through the normal supervisory process to determine the
37 financial condition of the subject institution or the details or
38 purpose of any transaction or transactions that may materially
39 affect the financial condition of the subject institution, the

1 commissioner may, without any prior notice or hearing, order the
2 subject institution to do either of the following:

3 (a) Cease any activity or practice that gave rise, in whole or in
4 part, to the incomplete or inaccurate state of the books or records.

5 (b) Take affirmative action to restore the books or records to a
6 complete and accurate state.

7 SEC. 151. The heading of Chapter 3 (commencing with Section
8 300) is added to Division 1 of the Financial Code, to read:

9
10 CHAPTER 3. DEPARTMENT OF FINANCIAL INSTITUTIONS

11
12 SEC. 152. The heading of Article 1 (commencing with Section
13 300) is added to Chapter 3 of Division 1 of the Financial Code, to
14 read:

15
16 Article 1. General Provisions

17
18 SEC. 153. Section 300 of the Financial Code is amended and
19 renumbered to read:

20 ~~300.~~

21 585. If, after notice and an opportunity to be heard, the
22 commissioner finds that any of the factors set forth in subdivision
23 (a), any of the factors set forth in subdivision (b), and any of the
24 factors set forth in subdivision (c) are true with respect to a subject
25 person of a subject institution or holding company, the
26 commissioner may issue an order suspending or removing the
27 subject person from the subject person’s office, if any, with the
28 subject institution or holding company, and prohibiting the subject
29 person from participating in any manner in the conduct of the
30 affairs of the subject institution or holding company without the
31 approval of the commissioner:

32 (a) (1) That the subject person has, directly or indirectly,
33 violated, or has caused a subject institution to violate, any provision
34 of any:

- 35 (A) Division subject to the jurisdiction of the commissioner.
- 36 (B) Regulation promulgated by, or subject to the jurisdiction
- 37 of, the commissioner.
- 38 (C) Other applicable law.
- 39 (D) Order issued by the commissioner or under the
- 40 commissioner’s authority.

1 (E) Written agreement between the subject institution, subject
2 person, or holding company and the commissioner.

3 (2) That the subject person has, directly or indirectly, engaged
4 or participated in any unsafe or unsound act in connection with
5 the business of the subject institution, holding company, or any
6 other business institution.

7 (3) That the subject person has, directly or indirectly, engaged
8 or participated in any act that constitutes a breach of the subject
9 person's fiduciary duty.

10 (b) That, by reason of the act, violation, or breach of fiduciary
11 duty described in subdivision (a):

12 (1) The subject institution, holding company, or business
13 institution has suffered or will probably suffer financial loss or
14 other harm.

15 (2) The rights or interests of the customers or members of the
16 subject institution have been or could be prejudiced.

17 (3) The subject person has received financial gain or other
18 benefit.

19 (c) That the act, violation, or breach of fiduciary duty described
20 in subdivision (a) either involves dishonesty on the part of the
21 subject person or demonstrates the subject person's willful or
22 continuing disregard for the safety or soundness of the subject
23 institution, holding company, or business institution.

24 SEC. 154. Section 300.1 of the Financial Code is amended and
25 renumbered to read:

26 ~~300.1.~~

27 586. If the commissioner finds that any of the factors set forth
28 in subdivision (a) of Section ~~300~~ 585, any of the factors set forth
29 in subdivision (b) of Section 300, and any of the factors set forth
30 in subdivision (c) of Section ~~300~~ 585 are true with respect to a
31 subject person of a subject institution, and that it is necessary or
32 advisable for the protection of the subject institution or holding
33 company, or the rights or interests of the customers or members
34 of the subject institution, the commissioner may, without any prior
35 notice or opportunity to be heard, issue an order suspending the
36 subject person from the subject person's office, if any, with the
37 subject institution or holding company, and prohibiting the subject
38 person from participating in any manner in the conduct of the
39 affairs of the subject institution or holding company without the
40 prior approval of the commissioner.

1 SEC. 155. Section 300.2 of the Financial Code is amended and
2 renumbered to read:

3 ~~300.2.~~

4 587. (a) If the commissioner finds that any of the factors set
5 forth in paragraph (1) and the factor set forth in paragraph (2) are
6 true with respect to a subject person or former subject person of a
7 subject institution or holding company, the commissioner may,
8 without any prior notice or opportunity to be heard, issue an order
9 suspending the subject person or former subject person from his
10 or her office, if any, with the subject institution or holding company
11 and prohibiting him or her from further participating in any manner
12 in the conduct of the affairs of the subject institution or holding
13 company without the approval of the commissioner:

14 (1) That the subject person or former subject person has been
15 charged in an indictment issued by a grand jury or in an
16 information, complaint, or similar pleading issued by a United
17 States attorney, district attorney, or other governmental official or
18 agency authorized to prosecute crimes, with commission of or
19 participation in any of the following:

20 (A) A crime that involves dishonesty or breach of trust and that
21 is punishable by imprisonment for a term exceeding one year.

22 (B) A criminal violation of any provision of this division.

23 (C) A criminal violation of Section 1956, 1957, or 1960 of Title
24 18 of, or Section 5322 or 5324 of Title 31 of, the United States
25 Code.

26 (D) A criminal violation of a law of any jurisdiction other than
27 the United States that is substantially similar to any of the statutes
28 specified in subparagraph (C).

29 (2) That continued or resumed service or participation by the
30 subject person or former subject person may pose a threat to the
31 rights or interests of the customers or members of the subject
32 institution or may threaten to impair public confidence in the
33 subject institution.

34 (b) An order issued pursuant to subdivision (a) shall remain in
35 effect until the indictment or the information, complaint, or similar
36 pleading is finally disposed of or, if the order is earlier terminated
37 by the commissioner, until the order is so terminated.

38 (c) If the commissioner finds that the factors set forth in
39 paragraphs (1) and (2) are true with respect to a subject person or
40 former subject person of a subject institution or holding company,

1 the commissioner may, without any prior notice or opportunity to
2 be heard, issue an order suspending or removing the subject person
3 or former subject person from his or her office, if any, with the
4 subject institution or holding company and prohibiting him or her
5 from further participating in any manner in the affairs of the subject
6 institution or holding company without the approval of the
7 commissioner:

8 (1) That the subject person or former subject person has been
9 finally convicted of any crime of the type described in paragraph
10 (1) of subdivision (a). For purposes of this paragraph, an agreement
11 to enter a pretrial diversion or similar program is deemed to be a
12 conviction.

13 (2) That continued or resumed service or participation by the
14 subject person or former subject person may pose a threat to the
15 interests of the customers of the subject institution or may threaten
16 to impair public confidence in the subject institution.

17 (d) The fact that any subject person of a subject institution
18 charged with a crime of the type described in paragraph (1) of
19 subdivision (a) is not finally convicted of the crime does not
20 preclude the commissioner from issuing an order regarding the
21 subject person pursuant to any other provision of this article.

22 SEC. 156. Section 300.3 of the Financial Code is amended and
23 renumbered to read:

24 ~~300.3.~~

25 588. (a) Any subject institution, subject person of a subject
26 institution, or former subject person of a subject institution to
27 whom an order is issued under Sections ~~300~~ 585 to ~~300.2~~ 587,
28 inclusive, may apply to the commissioner to modify or rescind the
29 order. In deciding whether to grant or deny the application, the
30 commissioner shall consider whether it is in the public interest to
31 modify or rescind the order and whether it is reasonable to believe
32 that the subject person or former subject person will, if and when
33 he or she becomes a subject person of a subject institution or
34 holding company, comply with all applicable provisions of law,
35 or any regulation or order issued by the commissioner.

36 (b) The right of any subject person or former subject person of
37 a subject institution or holding company to whom an order is issued
38 under Sections ~~300~~ 585 to ~~300.2~~ 587, inclusive, to petition for
39 judicial review of the order shall not be affected by the failure of
40 the subject institution or holding company to apply to the

1 commissioner pursuant to subdivision (a) to modify or rescind the
2 order.

3 SEC. 157. Section 300.4 of the Financial Code is amended and
4 renumbered to read:

5 ~~300.4.~~

6 589. (a) In this section, “subject depository institution” means
7 any:

8 (1) Licensee or any bank or credit union that maintains an office
9 in this state.

10 (2) Affiliate of any of the institutions specified in paragraph
11 (1).

12 (3) Subsidiary of any of the institutions specified in paragraph
13 (1).

14 (4) Holding company of any of the institutions specified in
15 paragraph (1).

16 (b) It is unlawful for any subject person or former subject person
17 of a subject institution to whom an order is issued under Sections
18 ~~300~~ 585 to ~~300.2~~ 587, inclusive, willfully to do, directly or
19 indirectly, any of the following without the approval of the
20 commissioner, so long as the order is in effect:

21 (1) Act as a subject person of any subject depository institution.

22 (2) Vote any shares or other securities having voting rights for
23 the election of any person as a director of a subject depository
24 institution.

25 (3) Solicit, procure, transfer or attempt to transfer, or vote any
26 proxy, consent, or authorization with respect to any shares or other
27 securities of a subject depository institution having voting rights.

28 (4) Otherwise to participate in any manner in the affairs of any
29 subject depository institution.

30 SEC. 158. Section 301 of the Financial Code is amended and
31 renumbered to read:

32 ~~301.~~

33 590. The commissioner may revoke or suspend any license
34 issued by, or under the authority of, the commissioner, if, after
35 notice and opportunity to be heard, the commissioner finds any of
36 the following:

37 (a) The licensee has violated, is violating, or that there is
38 reasonable cause to believe that the licensee is about to violate,
39 any provision of any of the following:

40 (1) Any division subject to the jurisdiction of the commissioner.

1 (2) Any regulation promulgated by, or subject to the jurisdiction
2 of, the commissioner.

3 (3) A provision of any other applicable law.

4 (4) A provision of any order issued by the commissioner.

5 (5) A provision of any written agreement between the licensee
6 and the commissioner.

7 (6) A condition imposed on any written approval granted by
8 the commissioner.

9 (b) Any fact or condition exists which, if it had existed at the
10 time of the original application for the license, would be grounds
11 for denying the application for the license.

12 (c) The licensee is conducting its business in an unsafe manner.

13 (d) The licensee is in such condition that it is unsafe or unsound
14 for the licensee to transact appropriate licensee business.

15 (e) The licensee has inadequate capital or net worth or is
16 insolvent.

17 (f) The licensee failed to pay any of its obligations as they came
18 due or is reasonably expected to be unable to pay its obligations
19 as they come due.

20 (g) The licensee is the subject of an order for relief in
21 bankruptcy, or has sought other relief under any bankruptcy,
22 reorganization, insolvency, or moratorium law, or any person has
23 applied for any such relief under any such law against the licensee
24 and the licensee has by any affirmative act approved of, or
25 consented to, the action or the relief has been granted.

26 (h) The licensee has ceased to transact appropriate licensee
27 business.

28 (i) The licensee refuses to submit its books, papers, and affairs
29 to the inspection of any examiner.

30 (j) Any officer of the licensee refuses to be examined upon oath
31 touching the concerns of the licensee.

32 (k) The licensee has, with the approval of its board, requested
33 the commissioner to take possession of its property and business.

34 SEC. 159. Section 301.1 of the Financial Code is amended and
35 renumbered to read:

36 ~~301.1.~~

37 *591.* If the commissioner finds that any of the factors set forth
38 in Section 301 is true with respect to any licensee and that it is
39 necessary for the protection of the public interest, the commissioner

1 may issue an order immediately suspending or revoking the
2 licensee’s license.

3 SEC. 160. Section 302 of the Financial Code is amended and
4 renumbered to read:

5 ~~302.~~

6 592. If the commissioner finds that any of the factors set forth
7 in subdivisions (a) to (k), inclusive, is true with respect to a
8 licensee, the commissioner may by order, without any prior notice
9 or opportunity to be heard, take possession of the property and
10 business of the licensee:

11 (a) The licensee has violated any provision of (1) any division
12 subject to the jurisdiction of the commissioner, (2) any regulation
13 promulgated by, or subject to the jurisdiction of, the commissioner,
14 (3) any provision of any other applicable law, (4) any provision
15 of any order issued by the commissioner, (5) any provision of any
16 written agreement made between the commissioner and the
17 licensee, or (6) a condition imposed on any written approval
18 granted by the commissioner.

19 (b) The licensee is conducting its business in an unsafe or
20 unsound manner.

21 (c) The licensee is in such condition that it is unsafe or unsound
22 for the licensee to transact appropriate licensee business.

23 (d) The licensee has inadequate capital or net worth or is
24 insolvent.

25 (e) If the licensee is a bank, the tangible shareholders’ equity
26 of the bank is less than the following:

27 (1) If the bank is a commercial bank or industrial bank, the
28 greater of three percent of the bank’s total assets or one million
29 dollars (\$1,000,000).

30 (2) If the bank is a trust company other than a commercial bank
31 authorized to engage in trust business, one million dollars
32 (\$1,000,000).

33 (f) The licensee failed to pay any of its obligations as they came
34 due or is reasonably expected to be unable to pay its obligations
35 as they come due.

36 (g) The licensee has applied for an adjudication of bankruptcy,
37 reorganization, arrangement, or other relief under any bankruptcy,
38 reorganization, insolvency, or moratorium law, or that any person
39 has applied for any such relief under any such law against the

1 licensee and the licensee has by any affirmative act approved of
2 or consented to the action or the relief has been granted.

3 (h) The licensee has ceased to transact the business the licensee
4 is authorized to conduct pursuant to its license.

5 (i) The licensee refuses to submit its books, papers, and affairs
6 to the inspection of any examiner.

7 (j) Any officer of the licensee refuses to be examined upon oath
8 touching the concerns of the licensee.

9 (k) The licensee has, with the approval of its board, requested
10 the commissioner to take possession of its property and business.

11 SEC. 161. Section 302.1 of the Financial Code is amended and
12 renumbered to read:

13 ~~302.1.~~

14 593. (a) If the commissioner takes possession of the property
15 and business of a licensee pursuant to Section ~~302~~ 592, the licensee
16 may, within 10 days, apply to the superior court in the county
17 where its head office is located to enjoin further proceedings. The
18 court may, after citing the commissioner to show cause why further
19 proceedings should not be enjoined and after a hearing, dismiss
20 the application or enjoin the commissioner from further
21 proceedings and order the commissioner to surrender the property
22 and business of the licensee to the licensee or make any further
23 order as may be just. The judgment of the court may be appealed
24 by the commissioner or by the licensee as allowed by law.

25 (b) At any time after the commissioner takes possession of the
26 property and business of a licensee pursuant to Section 302, the
27 licensee may, with the approval of the commissioner, resume
28 business upon conditions as the commissioner may prescribe.

29 SEC. 162. Section 302.2 of the Financial Code is amended and
30 renumbered to read:

31 ~~302.2.~~

32 594. (a) Upon taking possession of the property and business
33 of any licensee, the commissioner shall give notice of that fact to
34 all persons holding or having in their possession any assets of the
35 licensee. No person knowing of the taking, or who has been
36 notified thereof, shall have a lien or charge upon any assets of the
37 licensee for any payment, advance, or clearance thereafter made
38 or for any liability thereafter incurred.

1 (b) The giving of notice in accordance with this section shall
2 not be deemed to be a prerequisite to the taking of possession of
3 the property and business of the licensee.

4 SEC. 163. Section 302.3 of the Financial Code is amended and
5 renumbered to read:

6 ~~302.3.~~

7 595. The commissioner is deemed to take possession of the
8 entire property and business of a licensee when the commissioner
9 takes possession of the business and property of the head office
10 of the licensee.

11 SEC. 164. The heading of Article 8 (commencing with Section
12 305) of Chapter 2 of Division 1 of the Financial Code is repealed.

13
14 ~~Article 8. Liquidation and Conservation~~

15
16 SEC. 165. Section 305 of the Financial Code is amended and
17 renumbered to read:

18 ~~305.~~

19 600. In this article, “Federal Insurance Agency” means the
20 Federal Deposit Insurance Corporation or the National Credit
21 Union Administration, as appropriate, or their respective
22 successors-in-interest.

23 SEC. 166. Section 305.1 of the Financial Code is amended and
24 renumbered to read:

25 ~~305.1.~~

26 601. Upon taking possession of the property and business of
27 any licensee, the commissioner has authority, and it is his or her
28 duty, to collect all moneys due to the licensee and to do other acts
29 as are necessary or expedient to collect, conserve, or protect the
30 licensee’s assets, property, and business, and he or she shall
31 proceed to conserve or liquidate the affairs of the licensee as
32 provided in this article.

33 SEC. 167. Section 305.2 of the Financial Code is amended and
34 renumbered to read:

35 ~~305.2.~~

36 602. No attachment shall be issued against the property of any
37 licensee subject to conservation or liquidation pursuant to this
38 article.

39 SEC. 168. Section 305.3 of the Financial Code is amended and
40 renumbered to read:

1 ~~305.3.~~

2 603. Upon taking possession of the property and business of
3 any licensee pursuant to Section ~~302~~ 592, the commissioner may
4 proceed to liquidate or conserve the licensee in the manner
5 provided by this article.

6 SEC. 169. Section 305.4 of the Financial Code is amended and
7 renumbered to read:

8 ~~305.4.~~

9 604. Upon taking possession of the property and business of
10 a licensee pursuant to Section ~~302~~ 592, the commissioner may
11 tender to any person or persons an appointment as conservator,
12 liquidator, receiver, or liquidating committee of the licensee.

13 SEC. 170. Section 305.5 of the Financial Code is amended and
14 renumbered to read:

15 ~~305.5.~~

16 605. The commissioner shall supervise the acts of the
17 conservator, liquidator, receiver, or liquidating committee
18 appointed under this article and may remove the conservator,
19 liquidator, receiver, or any or all members of the liquidating
20 committee in his or her discretion.

21 SEC. 171. Section 305.6 of the Financial Code is amended and
22 renumbered to read:

23 ~~305.6.~~

24 606. If required by the commissioner, the conservator,
25 liquidator, receiver, or members of the liquidating committee
26 appointed under this article shall provide proof of bond coverage
27 that extends to the conservator, liquidator, receiver, or members
28 of the liquidating committee. The bond shall include fraud,
29 dishonesty, and faithful performance coverage. The premium for
30 that bond shall be paid out of the assets of the licensee.

31 SEC. 172. Section 305.7 of the Financial Code is amended and
32 renumbered to read:

33 ~~305.7.~~

34 607. (a) If the commissioner retains possession of the assets
35 of the licensee for the purpose of liquidation or conservation, the
36 commissioner shall, to the extent possible, use the services of civil
37 service employees of the commissioner's office, and the attorneys
38 employed by the commissioner or the Department of Justice shall
39 render all necessary legal services, as the commissioner may
40 request.

1 (b) The commissioner, from time to time, under his or her
 2 official seal, may appoint one or more special deputy
 3 commissioners as his or her agent or agents with the powers
 4 specified in the certificate of appointment to assist him or her in
 5 the duties of conservation or of liquidation and distribution. The
 6 certificate of appointment shall be filed in the office of the
 7 commissioner and a certified copy in the office of the clerk of the
 8 county in which the head office of the licensee is located. The
 9 commissioner may employ counsel and procure expert assistance
 10 and advice as may be necessary in the liquidation and distribution
 11 of the assets of the licensee and for that purpose may retain any
 12 of the officers or employees of the licensee as the commissioner
 13 may deem necessary.

14 SEC. 173. Section 305.8 of the Financial Code is amended and
 15 renumbered to read:

16 ~~305.8.~~

17 608. The compensation of civil service employees, special
 18 deputies, counsel, and other employees and assistants appointed
 19 to assist in the conservation or liquidation of any licensee and the
 20 distribution of its assets and all expenses of supervision and
 21 liquidation shall be fixed by the commissioner and shall be paid
 22 out of the funds of the licensee in the hands of the commissioner.
 23 The expenses of liquidation shall be reported to the court upon
 24 each application for payment of a dividend.

25 SEC. 174. Section 305.9 of the Financial Code is amended and
 26 renumbered to read:

27 ~~305.9.~~

28 609. If a licensee is not insured by a Federal Insurance Agency,
 29 upon the commissioner taking possession of the business and
 30 property of the licensee, the superior court of the State of California
 31 for the county in which the head office of the licensee is located
 32 shall have exclusive original jurisdiction of all proceedings relating
 33 thereto and of any action or other proceedings brought under the
 34 provisions of this article. All papers relating to the proceeding,
 35 including copies of the certificate of appointment of any special
 36 deputy and the inventories required to be filed, shall be filed and
 37 be made a part of the record of the proceeding without the payment
 38 of any additional fees. No damages may be awarded in the
 39 proceeding but, if sought, may only be recovered in a separate
 40 action.

1 SEC. 175. Section 310 of the Financial Code is amended and
2 renumbered to read:

3 ~~310.~~

4 620. If the licensee whose property and business has been taken
5 pursuant to Section ~~302~~ 592 is insured by a Federal Insurance
6 Agency, the commissioner may tender to the appropriate Federal
7 Insurance Agency an appointment as conservator, liquidator, or
8 receiver of the licensee. The commissioner shall determine whether
9 the licensee whose property and business has been taken shall be
10 liquidated or conserved. If the Federal Insurance Agency accepts
11 the appointment, the Federal Insurance Agency shall have, in
12 addition to any powers conferred by applicable federal law, the
13 powers conferred on the commissioner pursuant to this article.

14 SEC. 176. Section 310.1 of the Financial Code is amended and
15 renumbered to read:

16 ~~310.1.~~

17 621. The Federal Insurance Agency may be, and act as, a
18 conservator, liquidator, or receiver without bond.

19 SEC. 177. Section 310.2 of the Financial Code is amended and
20 renumbered to read:

21 ~~310.2.~~

22 622. If the Federal Insurance Agency accepts the appointment
23 in accordance with Section ~~310.1~~ 621, the rights of customers and
24 other creditors of the insured licensee shall be determined in
25 accordance with the applicable provisions of the laws of this state.

26 SEC. 178. Section 310.3 of the Financial Code is amended and
27 renumbered to read:

28 ~~310.3.~~

29 623. The Federal Insurance Agency conservator, liquidator, or
30 receiver shall possess with respect to the insured licensee all the
31 powers, rights, and privileges given the commissioner under this
32 article with respect to the conservation or liquidation of a licensee,
33 as appropriate, and the property and assets of which he or she has
34 taken possession, except insofar as the same may be in conflict
35 with the provisions of applicable federal law.

36 SEC. 179. Section 310.4 of the Financial Code is amended and
37 renumbered to read:

38 ~~310.4.~~

39 624. (a) The commissioner may sell to any other licensee any
40 part or the whole of the business of a licensee that is subject to

1 liquidation or conservatorship. The purchase and sale shall be
2 approved by the purchasing licensee, as follows:

3 (1) If the purchasing licensee is organized under the laws of this
4 state, by two-thirds of all of its directors.

5 (2) If the licensee is any licensee other than a licensee organized
6 under the laws of this state, in accordance with the laws of the
7 jurisdiction under which the licensee is organized.

8 (b) (1) Subject to any applicable federal statutes and regulations,
9 any bank or credit union organized under the laws of this state
10 may, with the approval of two-thirds of all of its directors, purchase
11 from the receiver of a national banking association or a federal
12 credit union the whole or any part of the business of the national
13 banking association or federal credit union.

14 (2) Subject to any applicable federal statutes and regulations
15 and any applicable laws of the jurisdiction under which a foreign
16 corporation is organized, any foreign corporation or office of a
17 foreign corporation that is licensed by the commissioner to transact
18 business in this state and that is authorized to accept shares or
19 deposits in this state, may purchase from the receiver of a national
20 banking association or federal credit union the whole or any part
21 of the business of the national banking association or federal credit
22 union.

23 (c) The provisions of Chapter 12 (commencing with Section
24 1200) and Chapter 13 (commencing with Section 1300) of Division
25 1 of Title 1 of the Corporations Code shall not apply to any
26 purchase and sale of the type described in subdivision (a) or (b).

27 (d) When a purchase and sale of the type described in
28 subdivision (a) or (b) becomes effective, the licensee shall, ipso
29 facto and by operation of law and without further transfer,
30 substitution, act, or deed, to the extent provided in the agreement
31 of the purchase and sale or in the order of the court approving the
32 purchase and sale and except as withheld or limited by the
33 agreement or by the order:

34 (1) Succeed to the rights, obligations, properties, assets,
35 investments, shares, deposits, demands, and agreements of the
36 licensee whose business is sold, subject to the right of every
37 customer of a licensee to withdraw his or her shares or deposit in
38 full on demand after the sale, irrespective of the terms under which
39 the share or deposit was made.

1 (2) Succeed to the rights, obligations, properties, assets,
2 investments, shares, deposits, demands, and agreements of the
3 licensee whose business is sold under all trusts, executorships,
4 administrations, guardianships, conservatorships, agencies, and
5 other fiduciary or representative capacities, to the same extent as
6 though the purchasing licensee had originally assumed, acquired,
7 or owned the same, subject to the rights of trustors and beneficiaries
8 under the trusts so sold to nominate another or succeeding trustee
9 of the trust so sold after the sale.

10 (3) Succeed to and be entitled to take and execute the
11 appointment to executorships, trusteeships, guardianships,
12 conservatorships, and other fiduciary and representative capacities
13 to which the licensee whose business is sold is or may be named
14 in wills, whenever probated, or to which it is or may be named or
15 appointed by any other instrument.

16 (e) For purposes of subdivision (d), any purchase and sale of
17 the type referred to in subdivision (d) shall be deemed to be
18 effective at the time provided in the agreement of the purchase
19 and sale or in the order of the court approving the purchase and
20 sale.

21 SEC. 180. Section 315 of the Financial Code is amended and
22 renumbered to read:

23 ~~315.~~

24 *640.* Whenever the commissioner deems it necessary in order
25 to conserve the assets of any licensee that does not have federal
26 deposit or share insurance for the benefit of the customers and
27 other creditors, he or she may appoint a conservator of the licensee
28 and require the conservator to post a bond as the commissioner
29 deems proper. The conservator, under the direction of the
30 commissioner, shall take possession of the books, records, and
31 assets of every description of the licensee and take any action as
32 the conservator may deem necessary to conserve the assets of the
33 licensee pending further disposition of its business.

34 SEC. 181. Section 315.1 of the Financial Code is amended and
35 renumbered to read:

36 ~~315.1.~~

37 *641.* A conservator appointed in accordance with Section ~~315~~
38 *640* has all of the powers and rights with relation to the business
39 and the property of the licensee for which he or she is appointed
40 conservator as are possessed by the commissioner under this article

1 with relation to a licensee of which the commissioner has taken
2 possession, and the conservator is subject to the same obligations
3 as are imposed upon the commissioner under this article. During
4 the time that the conservator remains in possession of the licensee
5 the rights of the licensee, and of all persons with respect thereto,
6 subject to the other provisions of this article, are the same as if the
7 commissioner had taken possession of the property and business
8 of the licensee for the purposes of liquidation. All expenses of the
9 conservatorship shall be paid out of the assets of the licensee and
10 shall be a lien thereon which shall be prior to any other lien. The
11 conservator shall receive a salary in an amount no greater than that
12 which would be paid by the commissioner to a special deputy in
13 charge of the liquidation of a licensee.

14 SEC. 182. Section 315.2 of the Financial Code is amended and
15 renumbered to read:

16 ~~315.2.~~

17 642. The commissioner may order an examination at the earliest
18 possible date of a licensee for which the commissioner has
19 appointed a conservator.

20 SEC. 183. Section 315.3 of the Financial Code is amended and
21 renumbered to read:

22 ~~315.3.~~

23 643. While any licensee is in the hands of a conservator, the
24 commissioner may require the conservator to set aside and make
25 available for withdrawal by customers and for payment to other
26 creditors on a ratable basis such amounts as in the opinion of the
27 commissioner may safely be used for that purpose.

28 SEC. 184. Section 315.4 of the Financial Code is amended and
29 renumbered to read:

30 ~~315.4.~~

31 644. The commissioner, in his or her discretion, may permit
32 the conservator to receive shares or deposits, but any shares or
33 deposits received while the licensee is in the hands of a conservator
34 shall be held as trust funds and shall not be subject to any limitation
35 as to payment or withdrawal. The shares or deposits shall be
36 segregated and shall not be used to liquidate any indebtedness of
37 the licensee existing at the time the conservator was appointed or
38 for the payment of any later indebtedness incurred for the purpose
39 of liquidating any indebtedness of the licensee existing at the time
40 the conservator was appointed. The shares or deposits shall be kept

1 on hand in cash, invested in direct obligations of the United States,
2 or deposited with the Federal Reserve Bank.

3 SEC. 185. Section 315.5 of the Financial Code is amended and
4 renumbered to read:

5 ~~315.5:~~

6 645. If the commissioner is satisfied that it may be done safely
7 and that it would be in the public interest, he or she may terminate
8 a conservatorship and permit the licensee for whom a conservator
9 was appointed to resume the transaction of its business under the
10 direction of its board, subject to any terms, conditions, restrictions,
11 and limitations as the commissioner may prescribe.

12 SEC. 186. Section 315.6 of the Financial Code is amended and
13 renumbered to read:

14 ~~315.6:~~

15 646. The conservator of a licensee that has been permitted to
16 resume accepting member shares or deposits shall first cause a
17 notice to be published in a newspaper of local circulation. The
18 notice shall state the date on which the affairs of the licensee will
19 be returned to its board and that the provisions of Section ~~315.4~~
20 644 will not be effective after 30 days from that date. The form of
21 the notice and the newspaper in which the same is to be published
22 shall be first approved by the commissioner. On the date of the
23 publication of the notice, the conservator shall mail a copy of the
24 notice to every person who made any deposit in the licensee after
25 the date of the appointment of the conservator. The conservator
26 shall address the copy of the notice to the persons who have made
27 the deposits at the addresses appearing upon the books of the
28 licensee. The conservator shall also mail a similar notice to every
29 person making a deposit in the licensee after the date of the
30 publication of the notice and before the affairs of the licensee are
31 returned to its board.

32 SEC. 187. Section 315.7 of the Financial Code is amended and
33 renumbered to read:

34 ~~315.7:~~

35 647. The commissioner may assess and collect from all
36 licensees for whom a conservator is appointed their ratable share
37 of the costs incurred in the administration of this article.

38 SEC. 188. Section 315.8 of the Financial Code is amended and
39 renumbered to read:

1 ~~315.8.~~

2 648. Any licensee that the commissioner has taken possession
3 of pursuant to Section ~~302~~ 592, and for which a conservator has
4 been appointed pursuant to this article, may be reorganized under
5 a plan that requires the consent of any of the following:

6 (a) Customers and other creditors of the licensee representing
7 at least 75 percent in amount of its total member shares or deposits
8 and other liabilities as shown by the books of the licensee,
9 excluding member shares or deposits and other liabilities which
10 are to be satisfied in full under the provisions of the plan.

11 (b) Stockholders owning at least two-thirds of the outstanding
12 stock as shown by the books of the licensee.

13 (c) Members of the licensee.

14 (d) Customers and other creditors of the licensee representing
15 at least 75 percent in amount of its total shares or deposits and
16 other liabilities as shown by the books of the licensee, excluding
17 shares or deposits and other liabilities that are to be satisfied in
18 full under the provisions of the plan, and, if applicable to the
19 licensee, of stockholders owning at least two-thirds of its
20 outstanding stock as shown by the books of the licensee.

21 SEC. 189. Section 315.9 of the Financial Code is amended and
22 renumbered to read:

23 ~~315.9.~~

24 649. All customers, creditors, stockholders, if applicable, and
25 other interested persons shall be given notice of any proposed plan
26 of reorganization in the manner and at the times as the
27 commissioner directs.

28 SEC. 190. Section 315.10 of the Financial Code is amended
29 and renumbered to read:

30 ~~315.10.~~

31 650. No plan of reorganization shall become effective until the
32 commissioner finds that the plan is fair and equitable to all
33 customers, creditors, and stockholders, if applicable, and is in the
34 public interest and until the commissioner approves the same in
35 writing, subject to any conditions, restrictions, and limitations as
36 the commissioner may prescribe.

37 SEC. 191. Section 315.11 of the Financial Code is amended
38 and renumbered to read:

1 ~~315.11.~~

2 651. No creditor having security for the payment of his, her,
3 or its claim shall be affected in his, her, or its right to enforce the
4 security by the provisions of any plan for the reorganization of the
5 licensee. Any plan of reorganization involving the reduction of
6 claims of creditors shall apply only to that portion of a secured
7 creditor's loan that is not covered by the pledged security.

8 SEC. 192. Section 315.12 of the Financial Code is amended
9 and renumbered to read:

10 ~~315.12.~~

11 652. When any plan of reorganization becomes effective, all
12 books, records, and assets of the licensee shall be disposed of in
13 accordance with the provisions of the plan and the affairs of the
14 licensee shall be conducted by its board in the manner provided
15 by the plan and under the conditions, restrictions, and limitations
16 that may have been prescribed by the commissioner. When any
17 plan of reorganization adopted and approved as herein provided
18 becomes effective, all customers and other creditors and, if
19 applicable, stockholders of the licensee, whether or not they have
20 consented to the plan of reorganization, shall be fully and in all
21 respects subject to and bound by the plan's provisions and the
22 claims of all customers and other creditors shall be treated as if
23 they had consented to the plan of reorganization.

24 SEC. 193. The heading of Article 2 (commencing with Section
25 320) is added to Chapter 3 of Division 1 of the Financial Code, to
26 read:

27

28 Article 2. Commissioner of Financial Institutions

29

30 SEC. 194. Section 320 of the Financial Code is amended and
31 renumbered to read:

32 ~~320.~~

33 670. Upon taking possession of the property and business of
34 a licensee that does not have federal deposit or share insurance,
35 the commissioner may sell, compromise, or compound any bad or
36 doubtful debt owing the licensee for a principal sum not exceeding
37 ten thousand dollars (\$10,000), upon those terms as the
38 commissioner may deem proper. If the principal sum thereof
39 exceeds ten thousand dollars (\$10,000), the commissioner may
40 compromise, compound, or sell the debt upon those terms as the

1 court may approve. If it appears improbable that a recovery on a
2 debt can be had, and that the costs of an action to collect would
3 be lost, and the principal sum thereof does not exceed five hundred
4 dollars (\$500), the commissioner may determine that no suit
5 thereon shall be brought. If the principal sum of that debt exceeds
6 ten thousand dollars (\$10,000), the commissioner may determine
7 that no suit thereon be brought after obtaining approval of the
8 court.

9 SEC. 195. Section 320.1 of the Financial Code is amended and
10 renumbered to read:

11 ~~320.1.~~

12 671. The commissioner may sell any real or personal property
13 of the licensee for cash or on credit and on any other terms and
14 conditions as the commissioner may deem proper, subject to the
15 approval of the court.

16 SEC. 196. Section 320.2 of the Financial Code is amended and
17 renumbered to read:

18 ~~320.2.~~

19 672. (a) The commissioner may, with the approval of the court,
20 sell any part or the whole of the business of a licensee to any other
21 licensee. The purchase and sale shall be approved by the purchasing
22 licensee, as follows:

23 (1) If the purchasing licensee is organized under the laws of this
24 state, by two-thirds of all of its directors.

25 (2) If the licensee is any licensee other than a licensee organized
26 under the laws of this state, in accordance with the laws of the
27 jurisdiction under which the licensee is organized.

28 (b) (1) Subject to any applicable federal statutes and regulations,
29 any bank or credit union organized under the laws of this state
30 may, with the approval of two-thirds of all of its directors and of
31 the commissioner, purchase from the receiver of a national banking
32 association or a federal credit union the whole or any part of the
33 business of the national banking association or federal credit union.

34 (2) Subject to any applicable federal statutes and regulations
35 and any applicable laws of the jurisdiction under which a foreign
36 corporation is organized, any foreign corporation or any office of
37 a foreign corporation that is licensed by the commissioner to
38 transact business in this state and that is authorized to accept shares
39 or deposits in this state, may, with the approval of the
40 commissioner, purchase from the receiver of a national banking

1 association or federal credit union the whole or any part of the
2 business of the national banking association or federal credit union.

3 (c) The provisions of Chapter 12 (commencing with Section
4 1200) and Chapter 13 (commencing with Section 1300) of Division
5 1 of Title 1 of the Corporations Code shall not apply to any
6 purchase and sale of the type described in subdivision (a) or (b).

7 (d) When a purchase and sale of the type described in
8 subdivision (a) or (b) becomes effective, the purchasing licensee
9 shall, by operation of law and without further transfer, substitution,
10 act, or deed, to the extent provided in the agreement of the purchase
11 and sale or in the order of the court approving the purchase and
12 sale and except as withheld or limited by the agreement or by the
13 order:

14 (1) Succeed to the rights, obligations, properties, assets,
15 investments, shares, deposits, demands, and agreements of the
16 licensee whose business is sold, subject to the right of every
17 customer of the licensee whose shares or deposit is sold to
18 withdraw his or her shares or deposit in full on demand after the
19 sale, irrespective of the terms under which the deposit was made.

20 (2) Succeed to the rights, obligations, properties, assets,
21 investments, shares, deposits, demands, and agreements of the
22 whose business is sold under all trusts, executorships,
23 administrations, guardianships, conservatorships, agencies, and
24 other fiduciary or representative capacities, to the same extent as
25 though the purchasing licensee had originally assumed, acquired,
26 or owned the same, subject to the rights of trustors and beneficiaries
27 under the trusts so sold to nominate another or succeeding trustee
28 of the trust so sold after the sale.

29 (3) Succeed to and be entitled to take and execute the
30 appointment to executorships, trusteeships, guardianships,
31 conservatorships, and other fiduciary and representative capacities
32 to which the licensee whose business is sold is or may be named
33 in wills, whenever probated, or to which it is or may be named or
34 appointed by any other instrument.

35 (e) For purposes of subdivision (d), any purchase and sale of
36 the type referred to in subdivision (d) shall be deemed to be
37 effective at the time provided in the agreement of the purchase
38 and sale or in the order of the court approving the purchase and
39 sale.

1 SEC. 197. Section 320.3 of the Financial Code is amended and
2 renumbered to read:

3 ~~320.3.~~

4 673. Within six months after taking possession of the property
5 and business of any licensee that does not have federal deposit or
6 share insurance, the commissioner may terminate or adopt any
7 executory contract to which the licensee may be a party, including
8 leases of real or personal property. Claims for damages resulting
9 from the termination of any contract or lease may be filed and
10 allowed, but no claim of a landlord for damages resulting from the
11 rejection of an unexpired lease of real property or under any
12 covenant of the lease shall be allowed in an amount exceeding the
13 rent reserved by the lease, without acceleration, for the year
14 succeeding the date of the surrender of the premises plus the
15 amount of any unpaid accrued rent without acceleration. Any claim
16 shall be filed within 30 days of the date of the termination or within
17 the time that claims are to be filed under Section 320.10, whichever
18 is longer.

19 SEC. 198. Section 320.4 of the Financial Code is amended and
20 renumbered to read:

21 ~~320.4.~~

22 674. The commissioner, in his or her own name or in the name
23 of the licensee, may execute, acknowledge, and deliver any and
24 all conveyances and other instruments necessary or appropriate to
25 effectuate the sale of any real or personal property or to effectuate
26 any other transaction in connection with the liquidation of a
27 licensee or the distribution of its assets. Any conveyance or other
28 instrument executed by the commissioner pursuant to this authority
29 shall be valid and effectual for all purposes as though the same
30 had been executed by the officers of the licensee by authority of
31 its board of directors. Whenever the commissioner sells any real
32 property of the licensee a certified copy of the order of the court
33 approving the sale shall be recorded in the county in which any
34 part of the real property is located.

35 SEC. 199. Section 320.5 of the Financial Code is amended and
36 renumbered to read:

37 ~~320.5.~~

38 675. The commissioner, in the name of the delinquent licensee
39 or in his or her own name, may prosecute and defend any and all

1 actions and other legal proceedings appropriate or necessary to
2 the liquidation of the licensee.

3 SEC. 200. Section 320.6 of the Financial Code is amended and
4 renumbered to read:

5 ~~320.6.~~

6 676. The commissioner from time to time shall deposit all
7 moneys coming into his or her hands in the course of the liquidation
8 of the licensee in one or more state banks or state credit unions
9 and in the event of the suspension or insolvency of the depository
10 shall be preferred before all other deposits.

11 SEC. 201. Section 320.7 of the Financial Code is amended and
12 renumbered to read:

13 ~~320.7.~~

14 677. The commissioner shall make an inventory of the assets
15 of the licensee in duplicate and file one in the office of the
16 commissioner and one with the clerk of the county in which the
17 head office of the licensee is located to be filed with the papers in
18 the liquidation proceedings. The inventory shall be open for
19 inspection at all reasonable times.

20 SEC. 202. Section 320.8 of the Financial Code is amended and
21 renumbered to read:

22 ~~320.8.~~

23 678. When the time fixed for the presentation of claims has
24 expired, the commissioner shall make in duplicate a full and
25 complete list of all claims presented, including and specifying
26 claims that have been rejected by the commissioner, and a list of
27 all claims of customers as shown by the books or records of the
28 licensee for which claims have not yet been presented, and shall
29 file one copy of the list in the commissioner's office and one with
30 the clerk of the county in which the head office of the licensee is
31 located to be filed with the papers in the liquidation proceedings.
32 Before each application to the court for leave to declare a dividend,
33 the commissioner shall file a supplemental list of claims presented
34 since the last preceding list was filed, including and specifying
35 any claims that have been rejected by him or her. The list of claims
36 and of claims of customers as shown by the books or records of
37 the licensee shall be open for inspection at all reasonable times.

38 SEC. 203. Section 320.9 of the Financial Code is amended and
39 renumbered to read:

1 ~~320.9.~~

2 679. The commissioner shall cause notice to be given by
3 advertisement in any newspapers of general circulation as he or
4 she may select weekly for three consecutive months, calling on
5 all persons who have claims against the licensee to present the
6 same to the commissioner and make legal proof thereof at a place
7 to be specified therein and within four months of the date of the
8 first publication of the notice, which date shall be specified in the
9 notice. The notice shall also state that all claims other than those
10 of customers appearing upon the books or records of the licensee
11 shall be forever barred if not filed within the four months' period
12 and that all claims of customers appearing upon the books or
13 records of the licensee will be forever barred, except as herein
14 provided, if not filed prior to the filing of a petition for a final
15 dividend. The commissioner shall also mail a similar notice to all
16 persons, including customers whose names appear as creditors
17 upon the books of the licensee and whose addresses appear upon
18 the books or records of the licensee, and shall enclose therewith a
19 printed form of notice of claim.

20 SEC. 204. Section 320.10 of the Financial Code is amended
21 and renumbered to read:

22 ~~320.10.~~

23 680. All claims of every kind against the licensee or against
24 any property owned or held by the licensee shall be presented to
25 the commissioner in writing verified by the claimant or someone
26 on his or her behalf within four months of the date of the first
27 publication of the notice to creditors. Any claim, other than the
28 claim of a customer whose claim appears upon the books or records
29 of the licensee, not presented within the four months' period shall
30 be forever barred and any claim of a customer whose claim appears
31 upon the books or records of the licensee that is not so presented
32 prior to the date of the filing of the petition of the commissioner
33 with the court for approval of the payment of the final dividend
34 shall be forever barred except as to any moneys remaining after
35 all debts for which claims were duly filed have been paid in full
36 with interest. If the commissioner doubts the validity of any claim,
37 he or she may reject the claim and serve notice of the rejection
38 upon the claimant either by mail or personally. An affidavit of the
39 mailing or personal service of the notice shall be prima facie
40 evidence of the receipt thereof and shall be filed with the

1 commissioner. Any action upon a rejected claim shall be brought
2 within three months after the date of mailing or personal service
3 of the notice of rejection.

4 SEC. 205. Section 320.11 of the Financial Code is amended
5 and renumbered to read:

6 ~~320.11.~~

7 681. At any time and from time to time after the expiration of
8 the time fixed for the presentation of claims, the commissioner,
9 after obtaining approval of the court, may declare and pay one or
10 more dividends upon all approved claims out of the funds
11 remaining in his or her hands after the payment of expenses and
12 after setting aside an amount sufficient to pay to all customers,
13 who have not yet filed claims but whose claims appear upon the
14 books or records of the licensee, their pro rata share of the funds
15 then available for the payment of a dividend. At any time after the
16 expiration of one year from the date of the first publication of
17 notice to creditors and after obtaining the approval of the court,
18 the commissioner may declare and pay a final dividend.

19 SEC. 206. Section 320.12 of the Financial Code is amended
20 and renumbered to read:

21 ~~320.12.~~

22 682. (a) Expenses and claims of unsecured creditors have
23 priority in the following order:

24 (1) Expenses of liquidation and approved claims for fees and
25 assessments due the department.

26 (2) Approved claims given priority under other provisions of
27 state or federal law, including, but not limited to, Sections ~~320.6~~
28 ~~676~~ and ~~330~~ 710.

29 (3) Approved claims for “deposits,” as that term is defined in
30 12 U.S.C. Section 1813(*l*), but including obligations of the type
31 described in 12 U.S.C. Section 1813(*l*)(5)(A) and (B).

32 (4) Approved claims for other general liabilities.

33 (5) Approved claims for obligations subordinated to deposits
34 and other general liabilities.

35 (b) Interest shall be given the same priority as the claim on
36 which it is based, but no interest shall be paid on any claim until
37 the principal of all claims within the same class has been paid or
38 adequately provided for in full.

39 (c) Any funds remaining shall be paid to the members or
40 shareholders, as appropriate.

1 SEC. 207. Section 320.13 of the Financial Code is amended
2 and renumbered to read:

3 ~~320.13.~~

4 683. Objections to any claim not rejected by the commissioner
5 may be made by any person interested by filing a copy of the
6 objection with the commissioner, who shall present the copy to
7 the court at the time of the next application for approval of the
8 declaration of a dividend. The court shall thereupon dispose of the
9 objections or may order a reference for that purpose, and should
10 the objections to any claim be sustained by the court or by the
11 referee, the claim shall not be allowed by the commissioner until
12 the claimant has established the claim by judgment.

13 SEC. 208. Section 320.14 of the Financial Code is amended
14 and renumbered to read:

15 ~~320.14.~~

16 684. Dividends remaining unpaid and any sums available for
17 payment of shares or deposits for which no claim was filed, which
18 remain in the hands of the commissioner six months after the order
19 for the payment of a final dividend, shall be deposited in the State
20 Treasury. The shares or deposits shall be deemed to have been
21 received under Chapter 7 (commencing with Section 1500) of Title
22 10 of Part 3 of the Code of Civil Procedure, and shall be subject
23 to claim or other disposition as provided in that chapter. The
24 commissioner may pay over the moneys held by him or her to the
25 persons respectively entitled thereto at any time prior to depositing
26 the shares or deposits in the State Treasury, upon being furnished
27 satisfactory evidence of the persons' right to the same.

28 SEC. 209. Section 320.15 of the Financial Code is amended
29 and renumbered to read:

30 ~~320.15.~~

31 685. Whenever, under the provisions of this article, the
32 commissioner is required to transmit unclaimed money or other
33 unclaimed property to any state officer for deposit in the State
34 Treasury, the commissioner, upon request of the Controller, shall
35 transmit to the Controller all signature cards and any other
36 identifying information available from the records of the licensee,
37 covering the money or other property. Upon receipt by the
38 Controller of the signature cards or other identifying information,
39 the licensee and the commissioner shall be relieved of all
40 responsibility therefor. The signature cards and other identifying

1 information may be destroyed or otherwise disposed of by the
2 Controller whenever, in his or her discretion, their further retention
3 by him or her is no longer required in the interest of the customers
4 or the state.

5 SEC. 210. Section 320.16 of the Financial Code is amended
6 and renumbered to read:

7 ~~320.16.~~

8 686. All approved claims of customers and other creditors shall
9 bear interest at the rate provided by law on judgments from the
10 date that the commissioner takes possession of the property and
11 business of the licensee.

12 SEC. 211. Section 320.17 of the Financial Code is amended
13 and renumbered to read:

14 ~~320.17.~~

15 687. If the licensee has in its possession for safekeeping or
16 storage any jewelry, plate, money, specie, bullion, stocks, bonds,
17 securities, valuable papers, or other valuable personal property, or
18 has rented any vaults, safes, or safe-deposit boxes, the
19 commissioner shall cause to be mailed, by registered mail, postage
20 prepaid, to any known person claiming to be or appearing on the
21 books of the licensee to be the owner of the property or to the
22 person in whose name the safe, vault, or box stands a notice
23 notifying the person to remove all of the personal property within
24 a specified fixed period of not less than 60 days.

25 SEC. 212. Section 320.18 of the Financial Code is amended
26 and renumbered to read:

27 ~~320.18.~~

28 688. On the last day fixed in the notice for the removal of the
29 property or on the date when the property is removed or the box
30 surrendered, any contract between the person owning the property
31 or holding the box and the licensee shall cease and the amount of
32 the unearned prepaid rent or charges, if any, shall become a debt
33 of the licensee to the person.

34 SEC. 213. Section 320.19 of the Financial Code is amended
35 and renumbered to read:

36 ~~320.19.~~

37 689. If any property is not removed within the time fixed by
38 the notice mailed by the commissioner, the commissioner may
39 dispose of the property as the court, on application thereto, shall
40 direct. The commissioner may cause any safe, vault, or box to be

1 opened in his or her presence or in the presence of one of the
 2 special deputy commissioners and of a notary not an officer or
 3 employee of the licensee or of the commissioner. The contents
 4 thereof, if any, shall be sealed by the notary in a package upon
 5 which the notary shall distinctly mark the name and address of the
 6 person in whose name the safe or box stands upon the books of
 7 the licensee and shall attach thereon a list and a description of the
 8 property within the package. The package so sealed and addressed,
 9 together with the list and description may be kept by the
 10 commissioner in one or more of the safes or boxes of the licensee
 11 or elsewhere until delivered to the person whose name it bears or
 12 until otherwise disposed of as directed by the court.

13 SEC. 214. Section 320.20 of the Financial Code is amended
 14 and renumbered to read:

15 ~~320.20.~~

16 690. (a) When the commissioner has completed the liquidation
 17 of the licensee, he or she shall petition the court for an order
 18 declaring the licensee duly wound up and dissolved.

19 (b) After any notice as the court may direct and a hearing, the
 20 court may make an order declaring the licensee duly wound up
 21 and dissolved. The order shall declare all of the following:

- 22 (1) The licensee has been duly wound up.
- 23 (2) A final franchise tax return, if any, as described by Section
 24 23332 of the Revenue and Taxation Code, has been filed with the
 25 Franchise Tax Board as required under Part 10.2 (commencing
 26 with Section 18401) of Division 2 of the Revenue and Taxation
 27 Code, and any tax or penalty due under the Corporation Tax Law
 28 has been paid, and the licensee’s known debts and liabilities have
 29 been paid or adequately provided for, or any taxes, penalties, debts,
 30 and liabilities have been paid so far as the licensee’s assets
 31 permitted, as the case may be. If there are known debts or liabilities
 32 for the payment of which adequate provision has been made, the
 33 order shall describe the provision, setting forth any information
 34 necessary to enable the creditor or other person to whom payment
 35 is to be made to appear and claim payment of the debt or liability.
- 36 (3) All known assets of the licensee have been distributed to its
 37 shareholders or wholly applied on account of the licensee’s debts
 38 and liabilities.
- 39 (4) The licensee is dissolved.

1 (c) The court may make additional orders and grant further relief
2 as it deems proper upon the evidence submitted.

3 (d) Upon the making of the order declaring the licensee
4 dissolved, the corporate existence of the licensee shall cease, except
5 for the purposes of any necessary further winding up.

6 (e) Upon the making of the order declaring the licensee
7 dissolved, the commissioner shall file with the Secretary of State
8 a copy of the order, certified by the clerk of the court.

9 SEC. 215. Section 320.21 of the Financial Code is amended
10 and renumbered to read:

11 ~~320.21.~~

12 691. Whenever this article requires court approval of any step
13 in the liquidation proceedings, approval shall be given after a
14 hearing upon notice as the court may direct. At the hearing, the
15 court may by order approve the actions of the commissioner for
16 which he or she has petitioned the court's approval or it may, by
17 appropriate order, otherwise direct the commissioner in the matter
18 in connection with which the petition was filed.

19 SEC. 216. Section 320.22 of the Financial Code is amended
20 and renumbered to read:

21 ~~320.22.~~

22 692. Whenever, in the opinion of the commissioner, the
23 liquidation or reorganization of any licensee taken in charge by
24 him or her would be facilitated, or the public interests and the
25 interests of customers or stockholders would be served, the
26 commissioner may borrow money on behalf of the licensee from
27 any federal agency authorized to lend money to receivers, trustees,
28 liquidating agents, or other agents or supervisory authorities in
29 charge of licensees that are closed or in process of liquidation and,
30 with approval of the court, the commissioner may secure any
31 borrowings by the pledge of the assets of the licensee in any
32 manner and amount the commissioner deems necessary, proper,
33 or expedient.

34 SEC. 217. Section 325 of the Financial Code is amended and
35 renumbered to read:

36 ~~325.~~

37 700. Whenever any licensee is being liquidated or whenever
38 the trust business of any licensee has been discontinued and the
39 licensee has in its possession money or other property held by it
40 in trust or for safekeeping and the beneficiaries or persons entitled

1 thereto are unknown or cannot be found, the commissioner or the
2 licensee, upon obtaining approval of the superior court of the
3 county in which the liquidation proceedings are pending or in
4 which the head office of the licensee is situated, may do the
5 following:

6 (a) In the case of money, deliver it to the Treasurer.

7 (b) In the case of other property, deliver it to the Controller for
8 deposit in the State Treasury.

9 SEC. 218. Section 325.1 of the Financial Code is amended and
10 renumbered to read:

11 ~~325.1.~~

12 701. Upon the delivery of any money to the Treasurer or upon
13 the delivery of any property to the Controller, a certified copy of
14 the order of the court approving the delivery shall be given to the
15 Controller, and upon the delivery of any money to the Treasurer
16 a notice giving the amount delivered shall be filed with the
17 Controller. Upon the receipt of any money or other properties, the
18 Treasurer or the Controller, as the case may be, shall issue a receipt
19 for the same and the receipt shall be deemed a voucher in favor of
20 the licensee to the same extent as though executed by the
21 beneficiary or other person entitled thereto.

22 SEC. 219. Section 325.2 of the Financial Code is amended and
23 renumbered to read:

24 ~~325.2.~~

25 702. All money or other property delivered to the Treasurer or
26 Controller pursuant to this article shall be deemed to be delivered
27 for deposit in the State Treasury under the provisions of Chapter
28 7 (commencing with Section 1500) of Title 10 of Part 3 of the
29 Code of Civil Procedure and shall be subject to claim or other
30 disposition as provided in that chapter.

31 SEC. 220. Section 330 of the Financial Code is amended and
32 renumbered to read:

33 ~~330.~~

34 710. The holder or transferor of a negotiable instrument
35 transferred to a licensee for collection has a preferred claim in the
36 amount of the liability of the licensee on the instrument if the
37 instrument was forwarded to the licensee by any person or by any
38 other financial institution for collection and remittance, if payment
39 therefor has not been made and if the same has been collected
40 either in whole or in part by the licensee, unless the holder or

1 transferor is a voluntary depositor in the licensee and the proceeds
2 of the collection, at his or her request, have been credited by the
3 licensee to his or her account.

4 SEC. 221. The heading of Article 9 (commencing with Section
5 335) of Chapter 2 of Division 1 of the Financial Code is repealed.

6

7

~~Article 9. Voluntary Liquidation~~

8

9 SEC. 222. Section 335 of the Financial Code is amended and
10 renumbered to read:

11 ~~335.~~

12 720. Any licensee that voluntarily has ceased to do the business
13 for which it is licensed shall immediately notify the commissioner
14 and proceed to liquidate its affairs. Any share or deposit or other
15 sum that has not been paid to the person entitled thereto within six
16 months after the licensee ceased to conduct a business shall be
17 paid into the State Treasury. The deposits with the State Treasury
18 shall be deemed to have been received under the provisions of
19 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
20 of the Code of Civil Procedure and shall be subject to claim or
21 other disposition as provided in that chapter. If the commissioner
22 has reason to conclude that the liquidation of the licensee is not
23 being safely or expeditiously conducted, he or she may take
24 possession of the business and property of the licensee in the same
25 manner and with the same effect and subject to the same rights
26 accorded the licensee as if he or she had taken possession pursuant
27 to ~~Article 8 (commencing with Section 305) 1 (commencing with~~
28 *Section 600) of Chapter 8*, and he or she may proceed to liquidate
29 the licensee's affairs in the same manner as provided in that article.
30 When the licensee has been completely liquidated, its corporate
31 existence shall be dissolved in the manner provided by law.

32 SEC. 223. Section 335.1 of the Financial Code is amended and
33 renumbered to read:

34 ~~335.1.~~

35 721. If the licensee referred to in Section 335 is a
36 state-chartered credit union and the commissioner has taken
37 possession of the business and property of the credit union, the
38 commissioner may appoint a liquidating agent or a liquidating
39 committee of three members of the credit union to liquidate the
40 business and assets of the credit union in the manner provided in

1 Article 2 (commencing with Section 15250) of Chapter 9 of
 2 Division 5, except that, in lieu of the certificate required under
 3 Section 15252, the commissioner shall prepare and file in the office
 4 of the Secretary of State a certificate of commencement of
 5 liquidation proceedings upon taking possession of the business
 6 and assets, and the commissioner or his or her authorized deputy
 7 shall countersign the certificate referred to in Sections 15257 and
 8 15258 whenever liquidation is involuntary. The commissioner
 9 may, however, prepare and file a final certificate whenever he or
 10 she retains possession of the assets of any credit union for the
 11 purpose of liquidation. The liquidating agent need not be a member
 12 of the credit union to be liquidated and may be a person, firm, or
 13 corporation, as determined by the commissioner.

14 SEC. 224. The heading of Chapter 3 (commencing with Section
 15 350) of Division 1 of the Financial Code is repealed.

16

17 ~~CHAPTER 3. ORGANIZATION OF BANKS~~

18

19 SEC. 225. The heading of Article 1 (commencing with Section
 20 350) of Chapter 3 of Division 1 of the Financial Code is repealed.

21

22 ~~Article 1. General~~

23

24 SEC. 226. The heading of Article 3 (commencing with Section
 25 350) is added to Chapter 3 of Division 1 of the Financial Code, to
 26 read:

27

28 Article 3. Deputies and Employees

29

30 SEC. 227. Section 350 of the Financial Code is amended and
 31 renumbered to read:

32

32 ~~350.~~

33

33 *1001.* When authorized by the commissioner as provided in
 34 this chapter a corporation may be formed by one or more persons
 35 in accordance with the laws of this state for the purpose of
 36 conducting a commercial banking business or a trust business, or
 37 both of them. The qualification requirements of the Corporate
 38 Securities Law of 1968 shall not apply to the offer and sale of
 39 securities issued by and representing an interest in or a direct
 40 obligation of a bank or trust company incorporated under the laws

1 of this state if the securities are offered and sold pursuant to the
2 commissioner’s authorization described in Section ~~691~~ 1201 or
3 the securities are exempt from authorization pursuant to Section
4 ~~691.1~~ 1202, or by a regulation or order of the commissioner.

5 SEC. 228. Section 351 of the Financial Code is amended and
6 renumbered to read:

7 ~~351.~~

8 1002. No bank shall be a close corporation (as defined in
9 Section 158 of the Corporations Code).

10 SEC. 229. Section 352 of the Financial Code is amended and
11 renumbered to read:

12 ~~352.~~

13 1003. Except where explicitly stated or the context provides
14 otherwise, this division is applicable to the following:

15 (a) All corporations engaging in commercial banking, industrial
16 banking, or the trust business.

17 (b) All national banking associations authorized to transact
18 business in this state to the extent that the provisions of this division
19 are not inconsistent with and do not infringe paramount federal
20 laws governing national banking associations.

21 (c) All other corporations that subject themselves to the special
22 provisions and sections of this division.

23 (d) All other persons, associations, copartnerships, or
24 corporations who, by violating any of its provisions, become
25 subject to the penalties provided for in this division.

26 SEC. 230. Section 353 of the Financial Code is amended and
27 renumbered to read:

28 ~~353.~~

29 1004. (a) A California state bank is a corporation incorporated
30 under Division 1 (commencing with Section 100) of Title 1 of the
31 Corporations Code that is, with the approval of the commissioner,
32 incorporated for the purpose of engaging in, or that is authorized
33 by the commissioner to engage in, the commercial or industrial
34 banking business.

35 (b) All provisions of law applicable to corporations generally,
36 including, but not limited to, the General Corporation Law
37 (Division 1 (commencing with Section 100), Title 1 of the
38 Corporations Code) shall apply to banks. However, whenever any
39 provision of this division or any regulation or order issued under
40 any provision (other than this section) of this division applicable

1 to banks is inconsistent with any provision of law applicable to
2 corporations generally, that provision of this division or that
3 regulation or order shall apply and the provision of law applicable
4 to corporations generally shall not apply.

5 SEC. 231. Section 354 of the Financial Code is amended and
6 renumbered to read:

7 ~~354.~~

8 *1005.* It shall be unlawful for any person, corporation, limited
9 liability company, partnership, firm, or any other form of business
10 entity allowed by law, to engage in or transact commercial banking
11 business, industrial banking business, or trust business within this
12 state except by means of a corporation duly organized for that
13 purpose.

14 SEC. 232. Section 355 of the Financial Code is amended and
15 renumbered to read:

16 ~~355.~~

17 *1006.* No corporation shall hereafter be organized under the
18 laws of this state to transact the business of a commercial bank,
19 industrial bank, or trust company, except as provided in this
20 chapter.

21 SEC. 233. Section 356 of the Financial Code is amended and
22 renumbered to read:

23 ~~356.~~

24 *1007.* Neither the enactment of this code nor the amendment
25 or repeal thereof, nor the repeal of any statute affected thereby,
26 shall take away or impair any liability or cause of action existing
27 or incurred against any bank or trust company, or the shareholders,
28 directors, or officers thereof.

29 SEC. 234. Section 357 of the Financial Code is amended and
30 renumbered to read:

31 ~~357.~~

32 *1008.* The amount of funds of a bank or trust company that are
33 deposited in any other financial institution (other than a Federal
34 Reserve Bank) shall not at any time exceed 10 percent of the sum
35 of shareholders' equity, allowance for loan and lease losses, capital
36 notes, and debentures of the depositing bank or trust company
37 unless the financial institution has been designated as a depository
38 for the funds of the depositing bank or trust company by a vote of
39 the majority of the directors of the depositing bank or trust
40 company, and unless the financial institution has been approved

1 by the commissioner as a depository for the purposes of this
2 section. The commissioner may, in his or her discretion, revoke
3 his or her approval of any such depository and may, in his or her
4 discretion, limit the amount of funds that may be deposited by any
5 bank or trust company with any other financial institution. A
6 deposit by one bank or trust company with another financial
7 institution shall not be regarded as a loan.

8 SEC. 235. The heading of Article 2 (commencing with Section
9 360) of Chapter 3 of Division 1 of the Financial Code is repealed.

10
11 ~~Article 2. Application~~

12
13 SEC. 236. Section 360 of the Financial Code is amended and
14 renumbered to read:

15 ~~360.~~

16 *1020.* The request for authority to organize and establish a
17 corporation to engage in the banking or trust business shall be set
18 forth in an application in such form and containing such
19 information as the commissioner may require and shall be
20 accompanied by a fee of five thousand dollars (\$5,000).

21 SEC. 237. Section 360.5 of the Financial Code is amended and
22 renumbered to read:

23 ~~360.5.~~

24 *1021.* Upon receiving a request for an application, the
25 commissioner shall inform the prospective applicant in writing
26 that the commissioner is available to confer with such prospective
27 applicant in advance of the filing of an application for the purpose
28 of discussing questions relating to such application. However, no
29 application shall be decided in advance of filing.

30 SEC. 238. Section 361 of the Financial Code is amended and
31 renumbered to read:

32 ~~361.~~

33 *1022.* Upon the filing of an application the commissioner shall
34 make or cause to be made a careful investigation and examination
35 relative to the following:

36 (a) The character, reputation, and financial standing of the
37 organizers or incorporators and their motives in seeking to organize
38 the proposed bank or trust company.

39 (b) The need for banking or trust facilities or additional banking
40 or trust facilities, as the case may be, giving particular consideration

1 to the adequacy of existing banking or trust facilities and the need
2 for further banking or trust facilities.

3 (c) The character, financial responsibility, banking or trust
4 experience, and business qualifications of the proposed officers
5 of the bank or trust company.

6 (d) The character, financial responsibility, business experience,
7 and standing of the proposed stockholders and directors.

8 (e) Other facts and circumstances bearing on the proposed bank
9 or trust company and its relation to the locality as in the opinion
10 of the commissioner may be relevant.

11 SEC. 239. Section 362 of the Financial Code is amended and
12 renumbered to read:

13 ~~362.~~

14 *1023.* The commissioner may give or withhold his or her
15 approval of the application in his or her discretion, but he or she
16 shall not approve the application until he or she has ascertained to
17 his or her satisfaction:

18 (a) That the public convenience and advantage will be promoted
19 by the establishment of the proposed bank or trust company.

20 (b) That the proposed bank or trust company will have a
21 reasonable promise of successful operation.

22 (c) That the bank is being formed for no other purpose than the
23 legitimate objects contemplated by this division.

24 (d) That the proposed capital structure is adequate.

25 (e) That the proposed officers and directors have sufficient
26 banking or trust experience, ability, and standing to afford
27 reasonable promise of successful operation.

28 (f) That the name of the proposed bank or trust company does
29 not resemble, so closely as to be likely to cause confusion, the
30 name of any other bank or trust company transacting business in
31 this state or which had previously transacted business in this state.

32 (g) That the applicant has complied with all of the applicable
33 provisions of this division.

34 SEC. 240. Section 363 of the Financial Code is amended and
35 renumbered to read:

36 ~~363.~~

37 *1024.* At least 30 days before denying an application, the
38 commissioner shall by mail or other method of service give written
39 notice of the intended denial of an application and of the right of
40 the applicant to meet with the commissioner regarding the reasons

1 for such denial. The request for such meeting shall be in writing
2 and delivered to the commissioner within 20 calendar days of the
3 date of giving of the notice of intended denial. If a request is made
4 for such meeting, the application may not be denied until after the
5 meeting.

6 SEC. 241. Section 364 of the Financial Code is amended and
7 renumbered to read:

8 ~~364.~~

9 *1025.* The commissioner may, in approving an application to
10 organize and establish a corporation to engage in the banking or
11 trust business pursuant to Section 362, impose any conditions the
12 commissioner deems reasonable or necessary or advisable in the
13 public interest.

14 SEC. 242. Section 365 of the Financial Code is amended and
15 renumbered to read:

16 ~~365.~~

17 *1026.* (a) With the approval of the commissioner, a bank may
18 be formed to facilitate a merger or an acquisition of control. The
19 new bank may survive the merger or acquisition of control.

20 (b) Sections ~~360, 360.5, 361, 362, and 363~~ *1020, 1021, 1022,*
21 *1023, and 1024* shall not apply to the formation of a bank pursuant
22 to subdivision (a).

23 (c) Article 4 (commencing with Section ~~250~~) *370* of Chapter
24 *3* shall apply to a bank formed pursuant to subdivision (a).

25 (d) A request for approval to form a bank in accordance with
26 subdivision (a) shall be accompanied by a fee of two thousand five
27 hundred dollars (\$2,500).

28 SEC. 243. The heading of Article 4 (commencing with Section
29 370) is added to Chapter 3 of Division 1 of the Financial Code, to
30 read:

31

32 Article 4. Administration of the Department

33

34 SEC. 244. The heading of Article 4 (commencing with Section
35 399) of Chapter 3 of Division 1 of the Financial Code is repealed.

36

37 ~~Article 4. Authorization to Engage in Banking~~

38

39 SEC. 245. Section 399 of the Financial Code is amended and
40 renumbered to read:

1 399.

2 1040. In this ~~article~~ chapter:

3 (a) “Preopening expenditure” means any obligation incurred,
4 or sum disbursed, by a bank prior to the time when it commences
5 to transact banking business, for the purpose of organizing such
6 bank.

7 (b) “Preopening noncapital expenditure” means any preopening
8 expenditure other than such preopening expenditures as may be
9 capitalized.

10 SEC. 246. The heading of Article 5 (commencing with Section
11 400) is added to Chapter 3 of Division 1 of the Financial Code, to
12 read:

13
14 Article 5. Financial Institutions Fund

15
16 SEC. 247. Section 400 of the Financial Code is amended and
17 renumbered to read:

18 ~~400.~~

19 1041. The articles of incorporation of the proposed bank or
20 trust company shall be submitted to the commissioner for his or
21 her approval before they are filed with the Secretary of State
22 pursuant to the Corporations Code. After the articles have been
23 filed with the Secretary of State the proposed bank or trust
24 company shall:

25 (a) File with the commissioner a copy of its articles of
26 incorporation, certified by the Secretary of State.

27 (b) File with the commissioner a statement in the form and with
28 any supporting data as the commissioner may require showing that
29 the entire contributed capital has been fully paid in lawful money,
30 unconditionally, and that the funds representing the contributed
31 capital, less sums spent as authorized by this article for preopening
32 expenditures are on deposit in a state or national bank in this state,
33 subject to withdrawal on demand.

34 (c) Pay to the commissioner a fee of two thousand five hundred
35 dollars (\$2,500).

36 SEC. 248. Section 401 of the Financial Code is amended and
37 renumbered to read:

38 ~~401.~~

39 1042. If the commissioner finds that the proposed bank or trust
40 company has in good faith complied with all the requirements of

1 law and fulfilled all the conditions precedent to commencing
2 business imposed by this code or by regulation, the commissioner
3 shall, within 30 days after the statement and supporting data
4 specified in Section-~~400~~ 1041 have been filed with him or her,
5 issue in duplicate a certificate of authorization to transact business
6 as a bank or trust company, as the case may be, and shall transmit
7 one copy to the bank or trust company and place one copy on file
8 in the department. The certificate of authorization shall state that
9 the corporation named therein has complied with all the provisions
10 of this code governing organization of banks or trust companies
11 and that it is authorized to transact the business specified therein.

12 SEC. 249. Section 402 of the Financial Code is amended and
13 renumbered to read:

14 ~~402.~~

15 1043. It shall be unlawful to accept payment of subscriptions
16 for shares of any corporation proposing to engage in the banking
17 or trust business unless authority to organize such corporation has
18 been granted by the commissioner.

19 SEC. 250. Section 403 of the Financial Code is amended and
20 renumbered to read:

21 ~~403.~~

22 1044. No corporation organized to transact a commercial
23 banking or trust business shall transact any business until the
24 commissioner has issued his or her certificate authorizing it to
25 transact such business. No bank or trust company shall incur any
26 indebtedness except that which is incidental to its organization
27 until the amount of its contributed capital has been fully paid in
28 lawful money to the cashier or chief financial officer thereof.

29 SEC. 251. Section 404 of the Financial Code is amended and
30 renumbered to read:

31 ~~404.~~

32 1045. If the proposed bank or trust company fails to file
33 evidence of incorporation and organization with the commissioner
34 pursuant to Section-~~400~~ 1041 within one year after the approval
35 of the application for authority to organize the bank or trust
36 company, the right to organize the bank or trust company
37 automatically terminates. The commissioner, however, for good
38 cause on written application filed before the expiration of the
39 original period or any additional period, as the case may be, and
40 payment of a fee of one hundred dollars (\$100), may extend for

1 additional periods not in excess of six months each the time within
2 which the bank or trust company may be organized.

3 SEC. 252. The heading of Article 6 (commencing with Section
4 405) is added to Chapter 3 of Division 1 of the Financial Code, to
5 read:

6
7 Article 6. State Banking Account
8

9 SEC. 253. Section 405 of the Financial Code is amended and
10 renumbered to read:

11 ~~405.~~
12 1046. If the proposed bank or trust company fails to open for
13 business within 90 days after the issuance of the certificate of
14 authorization, the right to transact business automatically
15 terminates. The commissioner, however, for good cause on written
16 application filed before the end of said 90-day period, may extend
17 for one additional period of not to exceed 90 days the time within
18 which the bank or trust company may open for business.

19 SEC. 254. Section 406 of the Financial Code is amended and
20 renumbered to read:

21 ~~406.~~
22 1047. It is unlawful to apply any part of the funds collected
23 from subscribers or shareholders to the payment of commissions
24 or fees for obtaining subscriptions or selling shares or, except with
25 the prior approval of the commissioner, to the payment of
26 preopening noncapital expenditures.

27 SEC. 255. Section 407 of the Financial Code is amended and
28 renumbered to read:

29 ~~407.~~
30 1048. Every bank and trust company shall keep posted in a
31 conspicuous place in its banking room at its head office the
32 certificate of authority to transact a banking or trust business issued
33 by the commissioner.

34 SEC. 256. The heading of Chapter 4 (commencing with Section
35 450) is added to Division 1 of the Financial Code, to read:

36
37 CHAPTER 4. OPERATIONS
38

39 SEC. 257. The heading of Chapter 4 (commencing with Section
40 500) of Division 1 of the Financial Code is repealed.

~~CHAPTER 4. BANK OFFICES~~

1
2
3 SEC. 258. Section 500 of the Financial Code is amended and
4 renumbered to read:

5 ~~500.~~

6 1070. For purposes of this chapter, the following definitions
7 apply:

8 (a) “Automated teller machine” means any electronic
9 information processing device used by a financial institution and
10 its customers for the primary purpose of executing transactions
11 solely between the financial institution and its customers, if the
12 transactions are not incidental to sales between the customer and
13 a business entity other than a financial institution.

14 (b) “Branch office” means any office at which core banking
15 business is conducted other than an automated teller machine, a
16 device used to facilitate check guarantee or check authorization,
17 or a remote service facility as defined in subsection (d) of Section
18 345.12 of Title 12 of the Code of Federal Regulations.

19 (c) “Core banking business” means the business of receiving
20 deposits, paying checks, making loans, and other activities that
21 the commissioner may specify by order or regulation. “Core
22 banking business,” when used to describe the trust business,
23 includes receiving fiduciary assets and administering fiduciary
24 accounts.

25 (d) “Facility,” means an office in this state at which a bank
26 engages in noncore banking business but at which it does not
27 engage in core banking business.

28 (e) “Head office” means the office designated by the bank as
29 its headquarters.

30 (f) “Noncore banking business” means all activities permissible
31 for banks, except core banking business, and except those activities
32 prohibited by law or determined by the commissioner by regulation
33 or order not to be noncore banking business.

34 (g) “Office” means the head office, any branch office, and any
35 facility office of a bank.

36 (h) “Redesignate offices” means (1) the relocation by a bank of
37 its head office to the site of a branch or facility office in this state
38 and the concurrent establishment by the bank of an office at the
39 former site of the head office, or (2) the relocation by a bank of a
40 branch office to the site of a facility office and the concurrent

1 establishment by the bank of a branch or facility office at the
2 former site of the branch office.

3 SEC. 259. Section 501 of the Financial Code is amended and
4 renumbered to read:

5 ~~501.~~

6 1071. The commissioner shall issue a certificate in duplicate
7 authorizing a bank to establish and maintain an office. A bank
8 shall pay a fee of twenty-five dollars (\$25) for every certificate
9 the commissioner issues pursuant to this section.

10 SEC. 260. Section 502 of the Financial Code is amended and
11 renumbered to read:

12 ~~502.~~

13 1072. Every bank shall establish and maintain a head office
14 which shall be located in this state.

15 SEC. 261. Section 503 of the Financial Code is amended and
16 renumbered to read:

17 ~~503.~~

18 1073. A bank, with the approval of its board, may establish
19 and maintain one or more offices.

20 SEC. 262. Section 504 of the Financial Code is amended and
21 renumbered to read:

22 ~~504.~~

23 1074. A bank, with the approval of its board, may relocate an
24 office.

25 SEC. 263. Section 505 of the Financial Code is amended and
26 renumbered to read:

27 ~~505.~~

28 1075. A bank, with the approval of its board, may redesignate
29 offices.

30 SEC. 264. Section 506 of the Financial Code is amended and
31 renumbered to read:

32 ~~506.~~

33 1076. Each time a bank establishes an office, relocates an
34 office, or redesignates an office, the bank shall, within 10 days of
35 the establishment, relocation, or redesignation of the offices, file
36 a notice with the commissioner. The notice shall include:

37 (a) The type of office or offices to be established, relocated, or
38 redesignated.

39 (b) The complete address of the office or offices to be
40 established, relocated, or redesignated. If an office is being

1 relocated, the old address of the office and the address at which
2 the office will be relocated.

3 (c) The date the office or offices were established, relocated, or
4 redesignated.

5 (d) The appropriate fee for the certificate or certificates to be
6 issued by the commissioner.

7 SEC. 265. Section 507 of the Financial Code is amended and
8 renumbered to read:

9 ~~507.~~

10 1077. On or before January 1 of each year, every bank shall
11 file with the commissioner a list of all offices that are currently
12 maintained and operated by the bank. The report shall designate
13 the type of each office that is being maintained and operated, and
14 the complete address of each office.

15 SEC. 266. Section 508 of the Financial Code is amended and
16 renumbered to read:

17 ~~508.~~

18 1078. (a) A bank may close or discontinue the operation of
19 any branch office if, before the closing or discontinuance, (1) the
20 bank files with the commissioner a notice containing the
21 information in subdivision (b), and (2) the commissioner within
22 60 days after the filing of the notice or any longer period to which
23 the bank consents, filing of the notice or any longer period to which
24 the bank consents, either (A) issues a written statement not
25 objecting to the notice, or (B) does not issue a written objection
26 to the notice.

27 (b) (1) A notice filed under subdivision (a) shall contain all of
28 the following information:

29 (A) The name of the California state bank.

30 (B) The location of the branch office proposed to be closed or
31 discontinued.

32 (C) The location of the office to which the business of the branch
33 office proposed to be closed or discontinued is proposed to be
34 transferred.

35 (D) The proposed date of closing or discontinuance.

36 (E) A detailed statement of the reasons for the decision to close
37 the branch office.

38 (F) Statistical or other information in support of the reasons
39 consistent with the institution's written policy for branch office
40 closings.

1 (G) Any other information that the commissioner may require.

2 (2) A notice filed under subdivision (a) shall be in the form,
3 shall be signed in the manner, and shall, if the commissioner
4 requires, be verified in the manner that the commissioner may
5 require.

6 (c) For purposes of subdivision (a), a notice is deemed to be
7 filed with the commissioner at the time when the complete notice,
8 including any amendments or supplements, containing all the
9 information required by the commissioner, and otherwise
10 complying with subdivision (b), is received by the commissioner.

11 (d) In determining whether or not to object to a notice filed
12 under subdivision (a), except if the commissioner finds that it is
13 necessary in the interests of safety and soundness that the branch
14 office be closed or discontinued, the commissioner shall consider
15 whether the closing or discontinuance of the branch office will
16 have a seriously adverse effect on the public convenience or
17 advantage.

18 SEC. 267. Section 509 of the Financial Code is amended and
19 renumbered to read:

20 ~~509.~~

21 *1079.* If the commissioner finds for any reason that the
22 establishment, relocation, or redesignation of office would be
23 unsafe or unsound for a bank, the commissioner may order the
24 bank not to establish, relocate, or redesignate offices without the
25 prior approval of the commissioner. The order may contain any
26 other restrictions and conditions as the commissioner deems
27 necessary.

28 SEC. 268. Section 510 of the Financial Code is amended and
29 renumbered to read:

30 ~~510.~~

31 *1080.* If a bank violates any provision of this chapter or fails
32 to comply with any order, the commissioner may levy a penalty
33 against the bank pursuant to Section 216.3.

34 SEC. 269. Section 511 of the Financial Code is amended and
35 renumbered to read:

36 ~~511.~~

37 *1081.* A bank, with the approval of its board, may discontinue
38 a facility office. Within 10 days of the date of the closure of the
39 facility office, the bank shall file a notice of that discontinuance
40 with the commissioner. The notice shall contain the information

1 required by Section 506. There shall be no fee associated with the
2 discontinuance of a facility office.

3 SEC. 270. The heading of Chapter 4.5 (commencing with
4 Section 550) of Division 1 of the Financial Code is repealed.

5

6

~~CHAPTER 4.5. AUTHORIZATIONS FOR BANKS~~

7

8 SEC. 271. The heading of Chapter 5 (commencing with Section
9 550) is added to Division 1 of the Financial Code, to read:

10

11

CHAPTER 5. ENFORCEMENT

12

13 SEC. 272. Section 550 of the Financial Code is amended and
14 renumbered to read:

15

~~550.~~

16

17 *1300.* (a) Notwithstanding the provisions of Sections 1051,
18 1052, and 1054 of the Labor Code and Section 2947 of the Penal
19 Code, a bank or any affiliate thereof, licensed under the laws of
20 any state or of the United States, or any officer or employee thereof,
21 may deliver fingerprints taken of a director, an officer, an
22 employee, or an applicant for employment to local, state, or federal
23 law enforcement agencies for the purpose of obtaining information
24 as to the existence and nature of a criminal record, if any, of the
25 person fingerprinted relating to convictions, and to any arrest for
26 which that person is released on bail or on his or her own
27 recognizance pending trial, for the commission or attempted
28 commission of a crime involving robbery, burglary, theft,
29 embezzlement, fraud, forgery, bookmaking, receiving stolen
30 property, counterfeiting, or involving checks or credit cards or
using computers.

31

32 (b) The Department of Justice shall, pursuant to Section 11105
33 of the Penal Code, and a local agency may, pursuant to Section
34 13300 of the Penal Code, furnish to the officer of the bank or
35 affiliate responsible for the final decision regarding employment
36 of the person fingerprinted, or to his or her designees having
37 responsibilities for personnel or security decisions in the usual
38 scope and course of their employment with the bank or affiliate,
39 summary criminal history information when requested pursuant
40 to this section. If, upon evaluation of the criminal history
information received pursuant to this section, the bank or affiliate

1 determines that employment of the person fingerprinted would
2 constitute an unreasonable risk to that bank or affiliate or its
3 customers, the person may be denied employment.

4 (c) Banks and their affiliates shall submit to the Department of
5 Justice fingerprint images and related information required by the
6 Department of Justice of all directors, officers, employees, or an
7 applicant for employment for the purpose of obtaining information
8 regarding the existence and content of a record of state and federal
9 convictions and also information regarding the existence and
10 content of a record of state and federal arrests for which the
11 Department of Justice establishes that the person is free on bail,
12 or on his or her own recognizance, pending trial or appeal.

13 (d) When the Department of Justice receives a request under
14 this section for federal summary criminal history information, it
15 shall forward the request to the Federal Bureau of Investigation.
16 Once the information is received from the Federal Bureau of
17 Investigation, the Department of Justice shall review, compile,
18 and disseminate the information to the federally chartered bank or
19 affiliate pursuant to paragraph (1) of subdivision (o) of Section
20 11105 of the Penal Code.

21 (e) When the Department of Justice receives a request for federal
22 summary criminal history information from a nonchartered bank,
23 it shall forward the request to the Federal Bureau of Investigation.
24 Once the information is received from the Federal Bureau of
25 Investigation, the Department of Justice shall review and provide
26 a fitness determination on an applicant for employment based on
27 criminal convictions or on arrests for which the person is released
28 on bail or on his or her own recognizance pending trial for the
29 commission or attempted commission of crimes specified in
30 subdivision (a).

31 (f) A bank or affiliate may request from the Department of
32 Justice subsequent arrest notification service, as provided pursuant
33 to Section 11105.2 of the Penal Code, for persons described in
34 subdivision (a).

35 (g) The Department of Justice shall charge a fee sufficient to
36 cover the cost of processing the requests described in this section.

37 (h) Any criminal history information obtained pursuant to this
38 section is confidential and no recipient shall disclose its contents
39 other than for the purpose for which it was acquired.

1 (i) “Affiliate,” as used in this section, means any corporation
2 controlling, controlled by, or under common control with, a bank,
3 whether directly, indirectly, or through one or more intermediaries.

4 SEC. 273. Section 551 of the Financial Code is amended and
5 renumbered to read:

6 ~~551.~~

7 *1301.* (a) Notwithstanding Section 726 of the Code of Civil
8 Procedure or any other provision of law to the contrary, a state or
9 nationally chartered bank, its subsidiaries or affiliates transacting
10 business in this state, or any successor in interest thereto, that
11 originates, acquires, or purchases, in whole or in part, any loan
12 secured directly or collaterally, in whole or in part, by a mortgage
13 or deed of trust on real property, or any interest therein, may bring
14 an action for recovery of damages, including exemplary damages
15 not to exceed 50 percent of the actual damages, against a borrower
16 where the action is based on fraud under Section 1572 of the Civil
17 Code and the fraudulent conduct by the borrower induced the
18 original lender to make that loan.

19 (b) The provisions of this section shall not apply to loans secured
20 by single-family, owner-occupied residential real property, when
21 the property is actually occupied by the borrower as represented
22 to the lender in order to obtain the loan and the loan is for an
23 amount of one hundred fifty thousand dollars (\$150,000) or less,
24 as adjusted annually, commencing on January 1, 1987, to the
25 Consumer Price Index as published by the United States
26 Department of Labor.

27 (c) Any action maintained under this section for damages shall
28 not constitute a money judgment for deficiency or a deficiency
29 judgment within the meaning of Section 580a, 580b, or 580d of
30 the Code of Civil Procedure.

31 SEC. 274. The heading of Chapter 5 (commencing with Section
32 600) of Division 1 of the Financial Code is repealed.

33
34 ~~CHAPTER 5. CORPORATE REQUIREMENTS~~

35
36 SEC. 275. The heading of Article 1 (commencing with Section
37 600) of Chapter 5 of Division 1 of the Financial Code is repealed.

38
39 ~~Article 1. Articles, Bylaws, and Name~~

40

1 SEC. 276. The heading of Chapter 6 (commencing with Section
2 600) is added to Division 1 of the Financial Code, to read:

3
4 CHAPTER 6. LIQUIDATION AND CONSERVATION

5
6 SEC. 277. The heading of Article 1 (commencing with Section
7 600) is added to Chapter 6 of Division 1 of the Financial Code, to
8 read:

9
10 Article 1. General Provisions

11
12 SEC. 278. Section 600 of the Financial Code is amended and
13 renumbered to read:

14 ~~600.~~

15 1100. The articles of each bank shall contain the applicable
16 one of the following statements:

17 (a) In case the bank is, or is proposed to be, a commercial bank
18 not authorized to engage in trust business, that the purpose of the
19 corporation is to engage in commercial banking business and any
20 other lawful activities which are not, by applicable laws or
21 regulations, prohibited to a commercial bank.

22 (b) In case the bank is, or is proposed to be, a commercial bank
23 authorized to engage in trust business, that the purpose of the
24 corporation is to engage in commercial banking business and trust
25 business and any other lawful activities which are not, by
26 applicable laws or regulations, prohibited to a commercial bank
27 authorized to engage in trust business.

28 (c) In case the bank is, or is proposed to be, an industrial bank
29 not authorized to engage in trust business, that the purpose of the
30 corporation is to engage in industrial banking business and any
31 other lawful activities which are not, by applicable laws or
32 regulations, prohibited to an industrial bank.

33 (d) In case the bank is, or is proposed to be, an industrial bank
34 authorized to engage in trust business, that the purpose of the
35 corporation is to engage in industrial banking business and trust
36 business and any other lawful activities which are not, by
37 applicable laws or regulations, prohibited to an industrial bank
38 authorized to engage in trust business.

39 (e) In case the bank is, or is proposed to be, a trust company
40 (other than a commercial bank authorized to engage in trust

1 business), that the purpose of the corporation is to engage in trust
2 business and any other lawful activities which are not, by
3 applicable laws or regulations, prohibited to a trust company.

4 SEC. 279. Section 600.3 of the Financial Code is amended and
5 renumbered to read:

6 ~~600.3.~~

7 1101. (a) In this section:

8 (1) "Assessment provision" means the provision in the articles
9 of a bank that complies with the requirements of Section 600.2,
10 as in effect immediately before the effective date of this section,
11 or any predecessor statute.

12 (2) "Bank" means any (A) California state bank or (B)
13 corporation organized under the laws of this state for the purpose
14 of transacting business pursuant to Article 1 (commencing with
15 Section 3500) of Chapter 19.

16 (b) On and after the effective date of this section, the assessment
17 provision in the articles of a bank shall no longer be of any force
18 or effect.

19 (c) Notwithstanding Sections 902 and 903 of the Corporations
20 Code, a bank may, on or after the effective date of this section,
21 amend its articles by deleting the assessment provision with the
22 approval of its board alone and without any approval of its
23 outstanding shares.

24 (d) (1) Any order issued before the effective date of this section
25 by the commissioner pursuant to Section 662, as in effect
26 immediately before the effective date of this section or any
27 predecessor statute, shall, if and to the extent that the bank has not
28 before that date levied and collected through sale of shares or
29 otherwise, an assessment on its common shares, be deemed
30 rescinded.

31 (2) Any proceeding commenced before the effective date of this
32 section by a bank to assess its common shares in accordance with
33 an order issued by the commissioner pursuant to Section 662, as
34 in effect immediately before the effective date of this section or
35 any predecessor statute, shall be terminated on the effective date
36 of this section. On and after the effective date of this section, the
37 bank shall take no further action to levy or collect the assessment
38 on its common shares, and any lien on the common shares created
39 by the assessment shall be deemed extinguished.

1 SEC. 280. Section 600.4 of the Financial Code is amended and
2 renumbered to read:

3 ~~600.4.~~

4 *1102.* (a) No amendment of the articles of a bank (other than
5 an amendment set forth in an agreement of merger or in a certificate
6 of ownership executed pursuant to Section 1110 of the
7 Corporations Code that requires the approval of the commissioner
8 pursuant to Chapter 4 (commencing with Section 4880) of Division
9 1.5) shall become effective unless the certificate of amendment or
10 other instrument setting forth the amendment is filed with the
11 Secretary of State with the commissioner's approval endorsed
12 thereon. Promptly after the amendment becomes effective, the
13 bank shall file with the commissioner a copy of the certificate of
14 amendment or other instrument certified by the Secretary of State.

15 (b) Any amendment of the articles of a bank set forth in an
16 agreement of merger or in a certificate of ownership executed
17 pursuant to Section 1110 of the Corporations Code that requires
18 the approval of the commissioner pursuant to Chapter 4
19 (commencing with Section 4880) of Division 1.5, shall become
20 effective at the time when the merger becomes effective pursuant
21 to this division.

22 SEC. 281. Section 600.6 of the Financial Code is amended and
23 renumbered to read:

24 ~~600.6.~~

25 *1103.* No restated articles of a bank shall become effective
26 unless the certificate setting forth such restated articles is filed
27 with the Secretary of State with the commissioner's approval
28 endorsed thereon. Promptly after the restated articles become
29 effective, such bank shall file with the commissioner a copy of
30 such certificate certified by the Secretary of State.

31 SEC. 282. Section 600.8 of the Financial Code is amended and
32 renumbered to read:

33 ~~600.8.~~

34 *1104.* No certificate of determination of a bank shall become
35 effective unless such certificate of determination is filed with the
36 Secretary of State with the commissioner's approval endorsed
37 thereon. Promptly after the certificate of determination becomes
38 effective, such bank shall file with the commissioner a copy of the
39 certificate of determination certified by the Secretary of State.

1 SEC. 283. Section 600.10 of the Financial Code is amended
2 and renumbered to read:

3 ~~600.10.~~

4 *1105.* No certificate of correction of a bank shall become
5 effective unless such certificate of correction is filed with the
6 Secretary of State with the commissioner's approval endorsed
7 thereon. Promptly after the certificate of correction becomes
8 effective, such bank shall file with the commissioner a copy of the
9 certificate of correction certified by the Secretary of State.

10 SEC. 284. Section 600.12 of the Financial Code is amended
11 and renumbered to read:

12 ~~600.12.~~

13 *1106.* No certificate of revocation of a bank shall become
14 effective unless such certificate of revocation is filed with the
15 Secretary of State with the commissioner's approval endorsed
16 thereon. Promptly after the certificate of revocation becomes
17 effective, such bank shall file with the commissioner a copy of the
18 certificate of revocation certified by the Secretary of State.

19 SEC. 285. Section 602 of the Financial Code is amended and
20 renumbered to read:

21 ~~602.~~

22 *1107.* (a) A bank may change its name if it files with the
23 commissioner a report on the proposed change not less than 30
24 days before the change. The report shall be in the form, shall
25 contain the information, shall be signed in the manner, and shall,
26 if the commissioner so requires, be verified in the manner the
27 commissioner may require.

28 (b) Whenever a bank changes its name, the bank shall surrender
29 to the commissioner for cancellation the certificates of authority
30 under its old name for its head office, any branch offices, and any
31 places of business. The commissioner shall issue to the bank
32 replacement certificates under the bank's new name and the bank
33 shall pay to the commissioner a fee of twenty-five dollars (\$25)
34 for each replacement certificate.

35 (c) The commissioner may not deny an application for approval
36 of an amendment of the articles of incorporation of a bank which
37 changes the name of the bank or any other application of a bank
38 relating to a change in the name of the bank because the new name
39 of the bank resembles so closely, as to be likely to cause confusion,
40 the name of any other bank.

1 SEC. 286. The heading of Article 2 (commencing with Section
2 620) of Chapter 5 of Division 1 of the Financial Code is repealed.

3

4

~~Article 2. Shares~~

5

6 SEC. 287. The heading of Article 2 (commencing with Section
7 620) is added to Chapter 6 of Division 1 of the Financial Code, to
8 read:

9

10 Article 2. Conservation and Liquidation of an Insured Licensee

11

12 SEC. 288. Section 620 of the Financial Code is amended and
13 renumbered to read:

14

~~620.~~

15

1120. A bank may, with the approval of its board, determine
16 and from time to time redetermine the par value of any class or
17 series of its shares unless its articles provide that such shares shall
18 have par value and specify the par value of such shares.

19

SEC. 289. Section 621 of the Financial Code is amended and

20

renumbered to read:

21

~~621.~~

22

1121. No bank or trust company after October 1, 1949, shall

23

issue any shares before they are fully paid for.

24

SEC. 290. Section 622 of the Financial Code is amended and

25

renumbered to read:

26

~~622.~~

27

1122. No bank shall issue any shares in consideration of:

28

(a) Services rendered in the organization of such bank; or

29

(b) Any note (whether or not negotiable and whether or not

30

secured) made by the purchaser of such shares.