

AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 706

Introduced by Senator Price

February 18, 2011

An act to add Sections 10050.1, 10100.4, 10106, 11310.1, 11315.7, and 11315.9 to the Business and Professions Code, relating to real estate. An act to amend Sections 27, 10004, 10050, 10080, 11301, 11302, 11310, 11313 of, to add Sections 10002, 10002.5, 10050.1, 10054, 10055, 10056, 10057, 10058, 10060, 10100.4, 10106, 10186, 10186.1, 10186.2, 10186.3, 10186.4, 10186.5, 10186.7, 11310.1, 11315.7, 11315.9, 11319.1, 11319.2, 11319.3, 11319.4, 11319.5, 11319.6, and 11319.7 to, and to add and repeal Section 10186.8 of, the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 706, as amended, Price. ~~Real estate.~~ *Business and Professions.*

Existing

(1) *Existing* law provides for the licensure, *endorsement*, and regulation of real estate brokers ~~and~~, real estate salespersons, *and mortgage loan originators* by the Real Estate Commissioner of the Department of Real Estate *in the Business, Transportation and Housing Agency. The Office of Real Estate Appraisers within the Business, Transportation and Housing Agency is under the supervision and control of the Secretary of Business, Transportation and Housing.* Existing law provides for the licensure, *certification*, and regulation of persons who engage in specified real estate appraisal activity by the Director of the Office of Real Estate Appraisers, *who is responsible to the Secretary*

of Business, Transportation and Housing. A violation of these provisions is a crime.

This bill would establish the Office of Real Estate Appraisers (office) within the Department of Real Estate (department) and would also provide that the office is under the supervision and control of the Real Estate Commissioner (commissioner). The bill would make it the commissioner's responsibility to enforce those provisions governing real estate appraiser activity. The bill would require the Director of the Office of Real Estate Appraisers (director) to administer the licensing and certification provisions for real estate appraiser activity and would make the director responsible to the commissioner. The bill would state that protection of the public shall be the highest priority for the department and the office in exercising their licensing, regulatory, and disciplinary functions.~~The~~

The bill would authorize the department and the office to enter into a settlement with a licensee or applicant instead of the issuance of an accusation or statement of issues against the licensee or applicant, would require the settlement to identify the factual basis for the action being taken and the statutes or regulations that have been violated, and would provide that settlement against a licensee or applicant would be a public record, as specified. The bill would authorize an administrative law judge to order a licensee in a disciplinary proceeding to pay, upon request of the department or the office, the reasonable costs of investigating and prosecuting the disciplinary case against the licensee.~~The bill would require costs recovered in these disciplinary proceedings to be deposited in either the Real Estate Fund or the Real Estate Appraisers Regulation Fund, as specified, and would make the funds available upon appropriation by the Legislature.~~

When the commissioner or director disciplines a licensee or registrant by placing him or her on probation, the bill would authorize the commissioner and the director to require the licensee or registrant to pay the costs associated with the probation monitoring.

The bill would provide that a license or certificate shall be suspended if the licensee or registrant is incarcerated after the conviction of a felony and would require the department or the office to notify the licensee or registrant of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses.

The bill would require a licensee and registrant to report to the department or the office when there is an indictment or information charging a felony against the licensee or registrant or when he or she has been convicted of a felony or misdemeanor. The bill would make a violation of this reporting requirement a cause for discipline and a crime, thereby imposing a state-mandated local program.

The bill would require a licensee and registrant to identify himself or herself as a licensee or registrant of the department or the office to law enforcement and the court upon an arrest or being charged with a crime. The bill would require the department and the office to inform its licensees and registrants of this requirement.

The bill would require the district attorney, city attorney, and other prosecuting agencies to notify the department, the office, and the court clerk if felony charges have been filed against a licensee or registrant of the department or the office. The bill would require, within 10 days after a court judgment, the clerk of the court to report to the department or the office when a licensee or registrant has committed a crime or is liable for his or her professional negligence resulting in a specified judgment. The bill would require the clerk of the court to transmit to the department and the office specified felony preliminary transcript hearings concerning a defendant licensee or registrant. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.

The bill would require costs recovered pursuant to these disciplinary proceedings to be deposited in either the Real Estate Fund or the Real Estate Appraisers Regulation Fund, as specified, and would make the funds available upon appropriation by the Legislature.

The bill would require the commissioner to appoint a Real Estate Advisory Commission comprised of 11 members to meet at least 4 times annually, subject to specified procedures. Under the bill, the commission would consult with and advise the commissioner on the department's policies and procedures.

The bill would require the Secretary of Business, Transportation and Housing, by January 31, 2012, to appoint a Department of Real Estate Enforcement Program Monitor whose duties would include monitoring and evaluating the department's disciplinary system and reporting his or her findings, as specified, to the department and the Legislature no later than August 1, 2012. This bill would make the provisions that pertain to the enforcement program monitor inoperative on January 31, 2014.

(2) Existing law provides for the regulation of various profession and vocation licensees by boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law requires certain boards within the department to disclose on the Internet information on their respective licensees.

This bill would delete certain healing arts boards within the department from that requirement. The bill would require the California Board of Accountancy, the California Architects Board, the State Athletic Commission, the State Board of Barbering and Cosmetology, the State Board of Guide Dogs for the Blind, the State Board of Chiropractic Examiners, the Department of Real Estate, and the Office of Real Estate Appraisers to disclose on the Internet information on their respective licensees, as specified.

The bill would make other conforming and technical changes.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Each entity specified in ~~subdivision (b)~~ subdivisions
- 4 (c), (d), (e), and (f) shall provide on the Internet information
- 5 regarding the status of every license issued by that entity in
- 6 accordance with the California Public Records Act (Chapter 3.5
- 7 (commencing with Section 6250) of Division 7 of Title 1 of the
- 8 Government Code) and the Information Practices Act of 1977

1 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
2 4 of Division 3 of the Civil Code). The public information to be
3 provided on the Internet shall include information on suspensions
4 and revocations of licenses issued by the entity and other related
5 enforcement action, *including accusations filed pursuant to the*
6 *Administrative Procedure Act (Chapter 3.5 (commencing with*
7 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
8 *Code)* taken by the entity relative to persons, businesses, or
9 facilities subject to licensure or regulation by the entity. ~~In~~
10 ~~providing information on the Internet, each entity shall comply~~
11 ~~with the Department of Consumer Affairs Guidelines for Access~~
12 ~~to Public Records.~~ The information may not include personal
13 information, including home telephone number, date of birth, or
14 social security number. Each entity shall disclose a licensee's
15 address of record. However, each entity shall allow a licensee to
16 provide a post office box number or other alternate address, instead
17 of his or her home address, as the address of record. This section
18 shall not preclude an entity from also requiring a licensee, who
19 has provided a post office box number or other alternative mailing
20 address as his or her address of record, to provide a physical
21 business address or residence address only for the entity's internal
22 administrative use and not for disclosure as the licensee's address
23 of record or disclosure on the Internet.

24 (b) *In providing information on the Internet, each entity specified*
25 *in subdivisions (c) and (d) shall comply with the Department of*
26 *Consumer Affairs Guidelines for Access to Public Records.*

27 ~~(b)~~

28 (c) Each of the following entities within the Department of
29 Consumer Affairs shall comply with the requirements of this
30 section:

31 ~~(1) The Acupuncture Board shall disclose information on its~~
32 ~~licensees:~~

33 ~~(2) The Board of Behavioral Sciences shall disclose information~~
34 ~~on its licensees, including marriage and family therapists, licensed~~
35 ~~clinical social workers, and licensed educational psychologists:~~

36 ~~(3) The Dental Board of California shall disclose information~~
37 ~~on its licensees:~~

38 ~~(4) The State Board of Optometry shall disclose information~~
39 ~~regarding certificates of registration to practice optometry;~~

1 statements of licensure, optometric corporation registrations, branch
2 office licenses, and fictitious name permits of its licensees:

3 ~~(5)~~

4 ~~(1) The Board for Professional Engineers and Land Surveyors~~
5 ~~*Engineers, Land Surveyors, and Geologists*~~ shall disclose
6 information on its registrants and licensees.

7 ~~(6)~~

8 (2) The Structural Pest Control Board shall disclose information
9 on its licensees, including applicators, field representatives, and
10 operators in the areas of fumigation, general pest and wood
11 destroying pests and organisms, and wood roof cleaning and
12 treatment.

13 ~~(7)~~

14 (3) The Bureau of Automotive Repair shall disclose information
15 on its licensees, including auto repair dealers, smog stations, lamp
16 and brake stations, smog check technicians, and smog inspection
17 certification stations.

18 ~~(8)~~

19 (4) The Bureau of Electronic and Appliance Repair, *Home*
20 *Furnishings, and Thermal Insulation* shall disclose information
21 on its licensees *and registrants*, including major appliance repair
22 dealers, combination dealers (electronic and appliance), electronic
23 repair dealers, service contract sellers, and service contract
24 administrators.

25 ~~(9)~~

26 (5) The Cemetery and Funeral Bureau shall disclose information
27 on its licensees, including cemetery brokers, cemetery salespersons,
28 cemetery managers, crematory managers, cemetery authorities,
29 crematories, cremated remains disposers, embalmers, funeral
30 establishments, and funeral directors.

31 ~~(10)~~

32 (6) The Professional Fiduciaries Bureau shall disclose
33 information on its licensees.

34 ~~(11)~~

35 (7) The Contractors' State License Board shall disclose
36 information on its licensees *and registrants* in accordance with
37 Chapter 9 (commencing with Section 7000) of Division 3. In
38 addition to information related to licenses as specified in
39 subdivision (a), the board shall also disclose information provided

1 to the board by the Labor Commissioner pursuant to Section 98.9
2 of the Labor Code.

3 ~~(12) The Board of Psychology shall disclose information on its~~
4 ~~licensees, including psychologists, psychological assistants, and~~
5 ~~registered psychologists.~~

6 ~~(13)~~

7 (8) The Bureau for Private Postsecondary Education shall
8 disclose information on private postsecondary institutions under
9 its jurisdiction, including disclosure of notices to comply issued
10 pursuant to Section 94935 of the Education Code.

11 (9) *The California Board of Accountancy shall disclose*
12 *information on its licensees and registrants.*

13 (10) *The California Architects Board shall disclose information*
14 *on its licensees, including architects and landscape architects.*

15 (11) *The State Athletic Commission shall disclose information*
16 *on its licensees and registrants.*

17 (12) *The State Board of Barbering and Cosmetology shall*
18 *disclose information on its licensees.*

19 (13) *The State Board of Guide Dogs for the Blind shall disclose*
20 *information on its licensees and registrants.*

21 (d) *The State Board of Chiropractic Examiners shall disclose*
22 *information on its licensees.*

23 (e) *The Department of Real Estate shall disclose information*
24 *on its licensees.*

25 (f) *The Office of Real Estate Appraisers shall disclose*
26 *information on its licensees and registrants.*

27 (e)

28 (g) “Internet” for the purposes of this section has the meaning
29 set forth in paragraph (6) of subdivision (e) of Section 17538.

30 SEC. 2. *Section 10002 is added to the Business and Professions*
31 *Code, to read:*

32 10002. “Commission” *refers to the Real Estate Advisory*
33 *Commission.*

34 SEC. 3. *Section 10002.5 is added to the Business and*
35 *Professions Code, to read:*

36 10002.5. “Member” *refers to a member of the Real Estate*
37 *Advisory Commission.*

38 SEC. 4. *Section 10004 of the Business and Professions Code*
39 *is amended to read:*

1 10004. “Department” means the Department of Real Estate in
2 the Business ~~and~~, Transportation *and Housing* Agency.

3 *SEC. 5. Section 10050 of the Business and Professions Code*
4 *is amended to read:*

5 10050. There is in the Business and Transportation Agency a
6 Department of Real Estate, the chief officer of which department
7 is named the Real Estate Commissioner.

8 It shall be the principal responsibility of the commissioner to
9 enforce all laws in this part (commencing with Section 10000)
10 ~~and~~, Chapter 1 (commencing with Section 11000) of Part 2, *and*
11 *Part 3 (commencing with Section 11300)* of this division in a
12 manner which achieves the maximum protection for the purchasers
13 of real property and those persons dealing with real estate licensees.

14 ~~SECTION 1.~~

15 *SEC. 6. Section 10050.1 is added to the Business and*
16 *Professions Code, to read:*

17 10050.1. Protection of the public shall be the highest priority
18 for the Department of Real Estate in exercising its licensing,
19 regulatory, and disciplinary functions. Whenever the protection
20 of the public is inconsistent with other interests sought to be
21 promoted, the protection of the public shall be paramount.

22 *SEC. 7. Section 10054 is added to the Business and Professions*
23 *Code, to read:*

24 10054. (a) *The commissioner shall appoint a Real Estate*
25 *Advisory Commission to consult with and advise the commissioner*
26 *on the department’s policies and procedures in protecting the*
27 *public and in administering the provisions of this part, Chapter 1*
28 *(commencing with Section 11000) of Part 2, and Part 3*
29 *(commencing with Section 11300). The commission shall be*
30 *comprised of 11 members, five of whom shall be real estate brokers*
31 *licensed under this part and six of whom shall be public members.*
32 *The commissioner shall preside at commission meetings.*

33 (b) *Two of the licensed members shall hold a mortgage loan*
34 *originator license endorsement from the department. One public*
35 *member shall be a consumer advocate and one public member*
36 *shall be a local law enforcement representative.*

37 (c) *The members shall receive a per diem salary as provided in*
38 *Section 11564.5 of the Government Code, and in addition thereto*
39 *each shall be allowed his or her actual and necessary expenses in*
40 *the discharge of his or her duties.*

1 *SEC. 8. Section 10055 is added to the Business and Professions*
2 *Code, to read:*

3 *10055. (a) At the meetings described in Section 10057, the*
4 *commissioner shall meet, consult with, and advise the commission*
5 *on the functions and policies of the department and on how the*
6 *department may best serve the people of the state by, among other*
7 *things, recognizing the legitimate needs of the industry regulated*
8 *by the department and the department's licensees while*
9 *maintaining protection of the public as the department's highest*
10 *priority.*

11 *(b) At the meetings described in Section 10057, the commission*
12 *shall solicit the views and suggestions of the public and of the*
13 *licensees of the department.*

14 *SEC. 9. Section 10056 is added to the Business and Professions*
15 *Code, to read:*

16 *10056. The commission may make policy recommendations*
17 *and suggestions to the commissioner as it deems beneficial and*
18 *appropriate.*

19 *SEC. 10. Section 10057 is added to the Business and*
20 *Professions Code, to read:*

21 *10057. The commissioner shall call meetings of the commission*
22 *at least four times each year and written notice of the time and*
23 *place of each meeting shall be given to the members and such*
24 *other persons as shall have requested notice and shall be posted*
25 *prominently on the department's Internet Web site at least 10 days*
26 *before such meeting.*

27 *SEC. 11. Section 10058 is added to the Business and*
28 *Professions Code, to read:*

29 *10058. The meetings of the commission are subject to*
30 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
31 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
32 *the Government Code).*

33 *SEC. 12. Section 10060 is added to the Business and*
34 *Professions Code, to read:*

35 *10060. All records of the commission shall be open to*
36 *inspection by the public during regular office hours, except as*
37 *otherwise provided by law.*

38 *SEC. 13. Section 10080 of the Business and Professions Code*
39 *is amended to read:*

1 10080. The commissioner may adopt, amend, or repeal rules
2 and regulations that are reasonably necessary for the enforcement
3 of the provisions of this part and of Chapter 1 (commencing with
4 Section 11000) of Part 2 of this division. The rules and regulations
5 shall be adopted, amended, or repealed in accordance with the
6 provisions of the Administrative Procedure Act. *In addition to*
7 *other notices required by law, the commissioner shall notify the*
8 *Real Estate Advisory Commission of the intention to adopt rules*
9 *and regulations at least 30 days prior to such adoption.*

10 ~~SEC. 2.~~

11 *SEC. 14.* Section 10100.4 is added to the Business and
12 Professions Code, to read:

13 10100.4. (a) Notwithstanding Section 11415.60 of the
14 Government Code, the department may enter into a settlement
15 with a licensee or applicant instead of the issuance of an accusation
16 or statement of issues against that licensee or applicant.

17 (b) The settlement shall identify the factual basis for the action
18 being taken and the statutes or regulations violated.

19 (c) A person who enters a settlement pursuant to this section is
20 not precluded from filing a petition, in the timeframe permitted
21 by law, to modify the terms of the settlement or a petition for early
22 termination of probation, if probation is part of the settlement.

23 (d) Any settlement with a licensee executed pursuant to this
24 section shall be considered discipline and a public record and shall
25 be posted on the department's Internet Web site. Any settlement
26 against an applicant executed pursuant to this section shall be
27 considered a public record and shall be posted on the department's
28 Internet Web site.

29 ~~SEC. 3.~~

30 *SEC. 15.* Section 10106 is added to the Business and
31 Professions Code, to read:

32 10106. (a) Except as otherwise provided by law, in any order
33 issued in resolution of a disciplinary proceeding before the
34 department, the commissioner may request the administrative law
35 judge to direct a licensee found to have committed a violation of
36 this part to pay a sum not to exceed the reasonable costs of the
37 investigation and enforcement of the case.

38 (b) In the case of a disciplined licensee that is a corporation or
39 a partnership, the order may be made against the licensed corporate
40 entity or licensed partnership.

1 (c) A certified copy of the actual costs, or a good faith estimate
2 of costs where actual costs are not available, signed by the
3 commissioner or the commissioner’s designated representative,
4 shall be prima facie evidence of reasonable costs of investigation
5 and prosecution of the case. The costs shall include the amount of
6 investigative and enforcement costs up to the date of the hearing,
7 including, but not limited to, charges imposed by the Attorney
8 General.

9 (d) The administrative law judge shall make a proposed finding
10 of the amount of reasonable costs of investigation and prosecution
11 of the case when requested pursuant to subdivision (a). The finding
12 of the administrative law judge with regard to costs shall not be
13 reviewable by the commissioner to increase the cost award. The
14 commissioner may reduce or eliminate the cost award, or remand
15 to the administrative law judge where the proposed decision fails
16 to make a finding on costs requested pursuant to subdivision (a).

17 (e) Where an order for recovery of costs is made and timely
18 payment is not made as directed in the commissioner’s decision,
19 the commissioner may enforce the order for repayment in any
20 appropriate court. This right of enforcement shall be in addition
21 to any other rights the commissioner may have as to any licensee
22 to pay costs.

23 (f) In any action for recovery of costs, proof of the
24 commissioner’s decision shall be conclusive proof of the validity
25 of the order of payment and the terms for payment.

26 (g) (1) Except as provided in paragraph (2), the department
27 shall not renew or reinstate the license of any licensee who has
28 failed to pay all of the costs ordered under this section.

29 (2) The department may, in its discretion, conditionally renew
30 or reinstate for a maximum of one year the license of any licensee
31 who demonstrates financial hardship and who enters into a formal
32 agreement with the department to reimburse the department within
33 that one-year period for the unpaid costs.

34 (h) All costs recovered under this section shall be considered a
35 reimbursement for costs incurred and shall be deposited in the
36 Real Estate Fund to be available, notwithstanding Section 10451,
37 upon appropriation by the Legislature.

38 (i) Nothing in this section shall preclude the department from
39 including the recovery of the costs of investigation and enforcement
40 of a case in any stipulated settlement.

1 *SEC. 16. Section 10186 is added to the Business and*
2 *Professions Code, to read:*

3 *10186. (a) When the commissioner disciplines a licensee by*
4 *placing him or her on probation, the commissioner may, in addition*
5 *to any other terms and conditions placed upon the licensee, require*
6 *the licensee to pay the monetary costs associated with monitoring*
7 *the licensee's probation.*

8 *(b) The commissioner shall not renew a license or an*
9 *endorsement if the licensee fails to pay all of the costs he or she*
10 *is ordered to pay pursuant to this section once the licensee has*
11 *served his or her term of probation.*

12 *(c) The commissioner shall not reinstate a license or license*
13 *endorsement if the petitioner has failed to pay any costs he or she*
14 *was ordered to pay pursuant to this section.*

15 *(d) All costs recovered under this section shall be considered*
16 *a reimbursement for costs incurred and shall be deposited in the*
17 *Real Estate Fund to be available, notwithstanding Section 10451,*
18 *upon appropriation by the Legislature.*

19 *SEC. 17. Section 10186.1 is added to the Business and*
20 *Professions Code, to read:*

21 *10186.1. (a) A license or an endorsement of the department*
22 *shall be suspended automatically during any time that the licensee*
23 *is incarcerated after conviction of a felony, regardless of whether*
24 *the conviction has been appealed. The department shall,*
25 *immediately upon receipt of the certified copy of the record of*
26 *conviction, determine whether the license or endorsement has been*
27 *automatically suspended by virtue of the licensee's incarceration,*
28 *and if so, the duration of that suspension. The department shall*
29 *notify the licensee of the suspension and of his or her right to elect*
30 *to have the issue of penalty heard as provided in subdivision (d).*

31 *(b) If after a hearing before an administrative law judge from*
32 *the Office of Administrative Hearings it is determined that the*
33 *felony for which the licensee was convicted was substantially*
34 *related to the qualifications, functions, or duties of a licensee, the*
35 *commissioner upon receipt of the certified copy of the record of*
36 *conviction, shall suspend the license or endorsement until the time*
37 *for appeal has elapsed, if no appeal has been taken, or until the*
38 *judgment of conviction has been affirmed on appeal or has*
39 *otherwise become final, and until further order of the department.*

1 (c) Notwithstanding subdivision (b), a conviction of a charge
2 of violating any federal statute or regulation or any statute or
3 regulation of this state regulating dangerous drugs or controlled
4 substances, or a conviction of Section 187, 261, 262, or 288 of the
5 Penal Code, shall be conclusively presumed to be substantially
6 related to the qualifications, functions, or duties of a licensee and
7 no hearing shall be held on this issue. However, upon its own
8 motion or for good cause shown, the commissioner may decline
9 to impose or may set aside the suspension when it appears to be
10 in the interest of justice to do so, with due regard to maintaining
11 the integrity of, and confidence in, the practice regulated by the
12 department.

13 (d) (1) Discipline may be ordered against a licensee in
14 accordance with the laws and regulations of the department when
15 the time for appeal has elapsed, the judgment of conviction has
16 been affirmed on appeal, or an order granting probation is made
17 suspending the imposition of sentence, irrespective of a subsequent
18 order under Section 1203.4 of the Penal Code allowing the person
19 to withdraw his or her plea of guilty and to enter a plea of not
20 guilty, setting aside the verdict of guilty, or dismissing the
21 accusation, complaint, information, or indictment.

22 (2) The issue of penalty shall be heard by an administrative law
23 judge from the Office of Administrative Hearings. The hearing
24 shall not be held until the judgment of conviction has become final
25 or, irrespective of a subsequent order under Section 1203.4 of the
26 Penal Code, an order granting probation has been made
27 suspending the imposition of sentence, except that a licensee may,
28 at his or her option, elect to have the issue of penalty decided
29 before those time periods have elapsed. Where the licensee so
30 elects, the issue of penalty shall be heard in the manner described
31 in subdivision (b) at the hearing to determine whether the
32 conviction was substantially related to the qualifications, functions,
33 or duties of a licensee. If the conviction of a licensee who has made
34 this election is overturned on appeal, any discipline ordered
35 pursuant to this section shall automatically cease. Nothing in this
36 subdivision shall prohibit the department from pursuing
37 disciplinary action based on any cause other than the overturned
38 conviction.

1 (e) *The record of the proceedings resulting in a conviction,*
2 *including a transcript of the testimony in those proceedings, may*
3 *be received in evidence.*

4 (f) *Any other provision of law setting forth a procedure for the*
5 *suspension or revocation of a license or endorsement issued by*
6 *the department shall not apply to proceedings conducted pursuant*
7 *to this section.*

8 *SEC. 18. Section 10186.2 is added to the Business and*
9 *Professions Code, to read:*

10 *10186.2. (a) (1) A licensee shall report any of the following*
11 *to the department:*

12 (A) *The bringing of an indictment or information charging a*
13 *felony against the licensee.*

14 (B) *The arrest of the licensee.*

15 (C) *The conviction of the licensee, including any verdict of*
16 *guilty, or plea of guilty or no contest, of any felony or*
17 *misdemeanor.*

18 (D) *Any disciplinary action taken by another licensing entity*
19 *or authority of this state or of another state or an agency of the*
20 *federal government.*

21 (2) *The report required by this subdivision shall be made in*
22 *writing within 30 days of the date of the bringing of the indictment*
23 *or the charging of a felony, the arrest, the conviction, or the*
24 *disciplinary action.*

25 (b) *Failure to make a report required by this section shall be a*
26 *public offense punishable by a fine not to exceed five thousand*
27 *dollars (\$5,000) and shall constitute a cause for discipline.*

28 *SEC. 19. Section 10186.3 is added to the Business and*
29 *Professions Code, to read:*

30 *10186.3. A licensee shall identify himself or herself as a*
31 *licensee of the department to law enforcement and the court upon*
32 *being arrested or charged with a misdemeanor or felony. The*
33 *department shall inform its licensees of this requirement.*

34 *SEC. 20. Section 10186.4 is added to the Business and*
35 *Professions Code, to read:*

36 *10186.4. Within 10 days after a judgment by a court of this*
37 *state that a person who holds a license, endorsement, or other*
38 *similar authority from the department has committed a crime, or*
39 *is liable in a judgment for an amount in excess of thirty thousand*
40 *dollars (\$30,000) caused by his or her negligence, error or*

1 omission in practice, or his or her rendering unauthorized
2 professional services, the clerk of the court that rendered the
3 judgment shall report that fact to the department.

4 SEC. 21. Section 10186.5 is added to the Business and
5 Professions Code, to read:

6 10186.5. (a) The district attorney, city attorney, or other
7 prosecuting agency shall notify the department and the clerk of
8 the court, in which the charges have been filed, of any filings
9 against a licensee of the department charging a felony immediately
10 upon obtaining information that the defendant is a licensee of the
11 department. The notice shall identify the licensee and describe the
12 crimes charged and the facts alleged. The prosecuting agency
13 shall also notify the clerk of the court in which the action is pending
14 that the defendant is a licensee, and the clerk shall record
15 prominently in the file that the defendant holds a license from the
16 department.

17 (b) The clerk of the court in which a licensee is convicted of a
18 crime shall, within 48 hours after the conviction, transmit a
19 certified copy of the record of conviction to the department.

20 SEC. 22. Section 10186.7 is added to the Business and
21 Professions Code, to read:

22 10186.7. (a) The clerk of the court shall transmit any felony
23 preliminary hearing transcript concerning a defendant licensee
24 to the department where the total length of the transcript is under
25 800 pages and shall notify the department of any proceeding where
26 the transcript exceeds that length.

27 (b) In any case where a probation report on a licensee is
28 prepared for a court pursuant to Section 1203 of the Penal Code,
29 a copy of that report shall be transmitted by the probation officer
30 to the department.

31 SEC. 23. Section 10186.8 is added to the Business and
32 Professions Code, to read:

33 10186.8. (a) (1) The Secretary of the Business, Transportation
34 and Housing Agency shall appoint a Department of Real Estate
35 Enforcement Program Monitor no later than January 31, 2012.
36 The secretary may retain a person for this position by a personal
37 services contract, the Legislature finding, pursuant to Section
38 19130 of the Government Code, that this is a new state function.

39 (2) The secretary shall supervise the enforcement program
40 monitor and may terminate or dismiss him or her from this position.

1 (b) *The secretary shall advertise the availability of this position.*
2 *The requirements for this position include experience in conducting*
3 *investigations and familiarity with state laws, rules, and procedures*
4 *pertaining to the department and familiarity with relevant*
5 *administrative procedures.*

6 (c) (1) *The enforcement program monitor shall monitor and*
7 *evaluate the department's discipline system and procedures,*
8 *making as his or her highest priority the reform and reengineering*
9 *of the department's enforcement program and operations, and the*
10 *improvement of the overall efficiency of the department's*
11 *disciplinary system.*

12 (2) *This monitoring duty shall be on a continuing basis for a*
13 *period of no more than two years from the date of the enforcement*
14 *program monitor's appointment and shall include, but not be*
15 *limited to, improving the quality and consistency of complaint*
16 *processing and investigation and reducing the timeframes for each,*
17 *reducing any complaint backlog, assuring consistency in the*
18 *application of sanctions or discipline imposed on licensees. The*
19 *monitoring duties shall include the following areas:*

20 (A) *The accurate and consistent implementation of the laws and*
21 *rules affecting discipline.*

22 (B) *Staff concerns regarding disciplinary matters or procedures.*

23 (C) *Appropriate utilization of licensed professionals to*
24 *investigate complaints.*

25 (D) *The department's cooperation with other governmental*
26 *entities charged with enforcing related laws and regulations*
27 *regarding real estate licensees.*

28 (3) *The enforcement program monitor shall exercise no authority*
29 *over the department's discipline operations or staff; however, the*
30 *department and its staff shall cooperate with him or her, and the*
31 *department shall provide data, information, and case files as*
32 *requested by the enforcement program monitor to perform all of*
33 *his or her duties.*

34 (4) *The secretary shall assist the enforcement program monitor*
35 *in the performance of his or her duties, and the enforcement*
36 *program monitor shall have the same investigative authority as*
37 *the secretary.*

38 (d) *The enforcement program monitor shall submit an initial*
39 *written report of his or her findings and conclusions to the*
40 *department and the Legislature no later than August 1, 2012, and*

1 every six months thereafter, and be available to make oral reports
2 to each, if requested to do so. The enforcement program monitor
3 may also provide additional information to either the secretary or
4 the Legislature at his or her discretion or at the request of either
5 the secretary or the Legislature. The enforcement monitor shall
6 make his or her reports available to the public or the media. The
7 enforcement program monitor shall make every effort to provide
8 the department with an opportunity to reply to any facts, findings,
9 issues, or conclusions in his or her reports with which the
10 department may disagree.

11 (e) The department shall reimburse the secretary for all of the
12 costs associated with the employment of an enforcement program
13 monitor.

14 (f) This section shall remain in effect only until January 31,
15 2014, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 31, 2014, deletes or extends that
17 date.

18 SEC. 24. Section 11301 of the Business and Professions Code
19 is amended to read:

20 11301. There is hereby created within the ~~Business,~~
21 ~~Transportation and Housing Agency~~ Department of Real Estate
22 an Office of Real Estate Appraisers to administer and enforce this
23 part.

24 SEC. 25. Section 11302 of the Business and Professions Code
25 is amended to read:

26 11302. For the purpose of applying this part, the following
27 terms, unless otherwise expressly indicated, shall mean and have
28 the following definitions:

29 (a) “Agency” means the Business, Transportation and Housing
30 Agency.

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

36 The term “appraisal” does not include an opinion given by a real
37 estate licensee or engineer or land surveyor in the ordinary course
38 of his or her business in connection with a function for which a
39 license is required under Chapter 7 (commencing with Section
40 6700) or Chapter 15 (commencing with Section 8700) of Division

1 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
2 (commencing with Section 10500) and the opinion shall not be
3 referred to as an appraisal. This part does not apply to a probate
4 referee acting pursuant to Sections 400 to 408, inclusive, of the
5 Probate Code unless the appraised transaction is federally related.

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

9 (d) (1) “Appraisal management company” means any person
10 or entity that satisfies all of the following conditions:

11 (A) Maintains an approved list or lists, containing 11 or more
12 independent contractor appraisers licensed or certified pursuant
13 to this part, or employs 11 or more appraisers licensed or certified
14 pursuant to this part.

15 (B) Receives requests for appraisals from one or more clients.

16 (C) For a fee paid by one or more of its clients, delegates
17 appraisal assignments for completion by its independent contractor
18 or employee appraisers.

19 (2) “Appraisal management company” does not include any of
20 the following, when that person or entity directly contracts with
21 an independent appraiser:

22 (A) Any bank, credit union, trust company, savings and loan
23 association, or industrial loan company doing business under the
24 authority of, or in accordance with, a license, certificate, or charter
25 issued by the United States or any state, district, territory, or
26 commonwealth of the United States that is authorized to transact
27 business in this state.

28 (B) Any finance lender or finance broker licensed pursuant to
29 Division 9 (commencing with Section 22000) of the Financial
30 Code, when acting under the authority of that license.

31 (C) Any residential mortgage lender or residential mortgage
32 servicer licensed pursuant to Division 20 (commencing with
33 Section 50000) of the Financial Code, when acting under the
34 authority of that license.

35 (D) Any real estate broker licensed pursuant to Part 1
36 (commencing with Section 10000) of Division 4 of the Business
37 and Professions Code, when acting under the authority of that
38 license.

39 (3) “Appraisal management company” does not include any
40 person licensed to practice law in this state who is working with

1 or on behalf of a client of that person in connection with one or
2 more appraisals for that client.

3 (e) “Appraisal Subcommittee” means the Appraisal
4 Subcommittee of the Federal Financial Institutions Examination
5 Council.

6 (f) “Controlling person” means one or more of the following:

7 (1) An officer or director of an appraisal management company,
8 or an individual who holds a 10 percent or greater ownership
9 interest in an appraisal management company.

10 (2) An individual employed, appointed, or authorized by an
11 appraisal management company that has the authority to enter into
12 a contractual relationship with clients for the performance of
13 appraisal services and that has the authority to enter into
14 agreements with independent appraisers for the completion of
15 appraisals.

16 (3) An individual who possesses the power to direct or cause
17 the direction of the management or policies of an appraisal
18 management company.

19 (g) “Director” means the Director of the Office of Real Estate
20 Appraisers.

21 (h) “Federal financial institutions regulatory agency” means the
22 Federal Reserve Board, Federal Deposit Insurance Corporation,
23 Office of the Comptroller of the Currency, Office of Thrift
24 Supervision, Federal Home Loan Bank System, National Credit
25 Union Administration, and any other agency determined by the
26 director to have jurisdiction over transactions subject to this part.

27 (i) “Federally related real estate appraisal activity” means the
28 act or process of making or performing an appraisal on real estate
29 or real property in a federally related transaction and preparing an
30 appraisal as a result of that activity.

31 (j) “Federally related transaction” means any real estate-related
32 financial transaction which a federal financial institutions
33 regulatory agency engages in, contracts for or regulates and which
34 requires the services of a state licensed real estate appraiser
35 regulated by this part. This term also includes any transaction
36 identified as such by a federal financial institutions regulatory
37 agency.

38 (k) “License” means any license, certificate, permit, registration,
39 or other means issued by the office authorizing the person to whom
40 it is issued to act pursuant to this part within this state.

1 (l) “Licensure” means the procedures and requirements a person
 2 shall comply with in order to qualify for issuance of a license and
 3 includes the issuance of the license.

4 (m) “Office” means the Office of Real Estate Appraisers.

5 (n) “Registration” means the procedures and requirements with
 6 which a person or entity shall comply in order to qualify to conduct
 7 business as an appraisal management company.

8 ~~(o) “Secretary” means the Secretary of Business, Transportation
 9 and Housing.~~

10 ~~(p)~~

11 (o) “State licensed real estate appraiser” is a person who is
 12 issued and holds a current valid license under this part.

13 ~~(q)~~

14 (p) “Uniform Standards of Professional Appraisal Practice” are
 15 the standards of professional appraisal practice established by the
 16 Appraisal Foundation.

17 ~~(r)~~

18 (q) “Course provider” means a person or entity that provides
 19 educational courses related to professional appraisal practice.

20 (r) “Commissioner” means the Real Estate Commissioner.

21 (s) “Department” means the Department of Real Estate in the
 22 Business, Transportation and Housing Agency.

23 SEC. 26. Section 11310 of the Business and Professions Code
 24 is amended to read:

25 11310. The Governor shall appoint, subject to confirmation
 26 by the Senate, the Director of the Office of Real Estate Appraisers
 27 who shall, ~~in consultation with the Governor and secretary,~~
 28 administer the licensing and certification program for real estate
 29 appraisers. In making the appointment, consideration shall be given
 30 to the qualifications of an individual that demonstrate knowledge
 31 of the real estate appraisal profession.

32 (a) The director shall serve at the pleasure of the Governor. *The*
 33 *director shall administer the licensing and certification program*
 34 *in consultation with the Governor and the commissioner.* The
 35 salary for the director shall be fixed and determined by the ~~secretary~~
 36 *commissioner* with approval of the Department of Personnel
 37 Administration.

38 (b) The director shall not be actively engaged in the appraisal
 39 business or any other affected industry for the term of appointment,

1 and thereafter the director shall be subject to Section 87406 of the
2 Government Code.

3 (c) *Institutional safeguards shall be established and maintained*
4 *between the department and the office and its employees to protect*
5 *the independence of the appraiser regulatory function from*
6 *realty-related activities consistent with Title XI of the Financial*
7 *Institutions Reform, Recovery, and Enforcement Act of 1989, as*
8 *amended, by the Real Estate Appraisal Reform Amendments (12*
9 *U.S.C. Secs. 3331-3351). Decisions relating to appraisal license*
10 *issuance, revocation, and disciplinary actions shall be made by*
11 *the director and shall not be made or influenced by the department*
12 *or the commissioner.*

13 (e)

14 (d) The director, in consultation with the ~~secretary~~ *commissioner*
15 and in accordance with the State Civil Service Act, may appoint
16 and fix the compensation of legal, clerical, technical, investigation,
17 and auditing personnel as may be necessary to carry out this part.
18 All personnel shall perform their respective duties under the
19 supervision and direction of the director.

20 (d)

21 (e) The director may appoint not more than four deputy directors
22 as he or she deems appropriate. The deputy directors shall perform
23 their respective duties under the supervision and direction of the
24 director.

25 (e)

26 (f) Every power granted to or duty imposed upon the director
27 under this part may be exercised or performed in the name of the
28 director by the deputy directors, subject to conditions and
29 limitations as the director may prescribe.

30 ~~SEC. 4.~~

31 *SEC. 27.* Section 11310.1 is added to the Business and
32 Professions Code, to read:

33 11310.1. Protection of the public shall be the highest priority
34 for the Office of Real Estate Appraisers in exercising its licensing,
35 regulatory, and disciplinary functions. Whenever the protection
36 of the public is inconsistent with other interests sought to be
37 promoted, the protection of the public shall be paramount.

38 *SEC. 28.* *Section 11313 of the Business and Professions Code*
39 *is amended to read:*

1 11313. The office is under the supervision and control of the
2 ~~secretary commissioner~~. The duty of ~~enforcing and~~ administering
3 this part is vested in the director and he or she is responsible to the
4 ~~secretary commissioner~~ therefor. The director shall adopt and
5 enforce rules and regulations as are determined reasonably
6 necessary to carry out the purposes of this part. Those rules and
7 regulations shall be adopted pursuant to Chapter 3.5 (commencing
8 with Section 11340) of Part 1 of Division 3 of Title 2 of the
9 Government Code.

10 ~~SEC. 5.~~

11 *SEC. 29.* Section 11315.7 is added to the Business and
12 Professions Code, to read:

13 11315.7. (a) Notwithstanding Section 11415.60 of the
14 Government Code, the office may enter into a settlement with a
15 licensee or applicant instead of the issuance of an accusation or
16 statement of issues against that licensee or applicant.

17 (b) The settlement shall identify the factual basis for the action
18 being taken and the statutes or regulations violated.

19 (c) A person who enters a settlement pursuant to this section is
20 not precluded from filing a petition, in the timeframe permitted
21 by law, to modify the terms of the settlement or a petition for early
22 termination of probation, if probation is part of the settlement.

23 (d) Any settlement with a licensee executed pursuant to this
24 section shall be considered discipline and a public record and shall
25 be posted on the office's Internet Web site. Any settlement with
26 an applicant executed pursuant to this section shall be considered
27 a public record and shall be posted on the office's Internet Web
28 site.

29 ~~SEC. 6.~~

30 *SEC. 30.* Section 11315.9 is added to the Business and
31 Professions Code, to read:

32 11315.9. (a) Except as otherwise provided by law, in any order
33 issued in resolution of a disciplinary proceeding before the office,
34 the director may request the administrative law judge to direct a
35 licensee found to have committed a violation of this part to pay a
36 sum not to exceed the reasonable costs of the investigation and
37 enforcement of the case.

38 (b) In the case of a disciplined licensee that is a corporation or
39 a partnership, the order may be made against the licensed corporate
40 entity or licensed partnership.

1 (c) A certified copy of the actual costs, or a good faith estimate
2 of costs where actual costs are not available, signed by the director
3 or the director’s designated representative shall be prima facie
4 evidence of reasonable costs of investigation and prosecution of
5 the case. The costs shall include the amount of investigative and
6 enforcement costs up to the date of the hearing, including, but not
7 limited to, charges imposed by the Attorney General.

8 (d) The administrative law judge shall make a proposed finding
9 of the amount of reasonable costs of investigation and prosecution
10 of the case when requested pursuant to subdivision (a). The finding
11 of the administrative law judge with regard to costs shall not be
12 reviewable by the director to increase the cost award. The director
13 may reduce or eliminate the cost award, or remand to the
14 administrative law judge where the proposed decision fails to make
15 a finding on costs requested pursuant to subdivision (a).

16 (e) Where an order for recovery of costs is made and timely
17 payment is not made as directed in the director’s decision, the
18 office may enforce the order for repayment in any appropriate
19 court. This right of enforcement shall be in addition to any other
20 rights the office may have as to any licensee to pay costs.

21 (f) In any action for recovery of costs, proof of the director’s
22 decision shall be conclusive proof of the validity of the order of
23 payment and the terms for payment.

24 (g) (1) Except as provided in paragraph (2), the office shall not
25 renew or reinstate the license of any licensee who has failed to pay
26 all of the costs ordered under this section.

27 (2) The office may, in its discretion, conditionally renew or
28 reinstate for a maximum of one year the license of any licensee
29 who demonstrates financial hardship and who enters into a formal
30 agreement with the office to reimburse the office within that
31 one-year period for the unpaid costs.

32 (h) All costs recovered under this section shall be considered a
33 reimbursement for costs incurred and shall be deposited in the
34 Real Estate Appraisers Regulation Fund to be available upon
35 appropriation by the Legislature.

36 (i) Nothing in this section shall preclude the office from
37 including the recovery of the costs of investigation and enforcement
38 of a case in any stipulated settlement.

39 *SEC. 31. Section 11319.1 is added to the Business and*
40 *Professions Code, to read:*

1 11319.1. (a) When the director disciplines a licensee or
2 registrant by placing him or her on probation, the director may,
3 in addition to any other terms and conditions placed upon the
4 licensee or registrant, require the licensee or registrant to pay the
5 monetary costs associated with monitoring the licensee's or
6 registrant's probation.

7 (b) The director shall not renew a license of a licensee or a
8 certificate of a registrant who fails to pay all of the costs he or she
9 is ordered to pay pursuant to this section once the licensee or
10 registrant has served his or her term of probation.

11 (c) The director shall not reinstate a license or certificate if the
12 petitioner has failed to pay any costs he or she was ordered to pay
13 pursuant to this section.

14 (d) All costs recovered under this section shall be considered
15 a reimbursement for costs incurred and shall be deposited in the
16 Real Estate Appraisers Regulation Fund to be available upon
17 appropriation by the Legislature.

18 SEC. 32. Section 11319.2 is added to the Business and
19 Professions Code, to read:

20 11319.2. (a) A license of a licensee or a certificate of a
21 registrant shall be suspended automatically during any time that
22 the licensee or registrant is incarcerated after conviction of a
23 felony, regardless of whether the conviction has been appealed.
24 The office shall, immediately upon receipt of the certified copy of
25 the record of conviction, determine whether the license of the
26 licensee or certificate of the registrant has been automatically
27 suspended by virtue of the licensee's or registrant's incarceration,
28 and if so, the duration of that suspension. The office shall notify
29 the licensee or registrant in writing of the license or certificate
30 suspension and of his or her right to elect to have the issue of
31 penalty heard as provided in subdivision (d).

32 (b) If after a hearing before an administrative law judge from
33 the Office of Administrative Hearings it is determined that the
34 felony for which the licensee or registrant was convicted was
35 substantially related to the qualifications, functions, or duties of
36 a licensee or registrant, the director upon receipt of the certified
37 copy of the record of conviction, shall suspend the license or
38 certificate until the time for appeal has elapsed, if no appeal has
39 been taken, or until the judgment of conviction has been affirmed

1 on appeal or has otherwise become final, and until further order
2 of the director.

3 (c) Notwithstanding subdivision (b), a conviction of a charge
4 of violating any federal statute or regulation or any statute or
5 regulation of this state regulating dangerous drugs or controlled
6 substances, or a conviction of Section 187, 261, 262, or 288 of the
7 Penal Code, shall be conclusively presumed to be substantially
8 related to the qualifications, functions, or duties of a licensee or
9 registrant and no hearing shall be held on this issue. However,
10 upon its own motion or for good cause shown, the director may
11 decline to impose or may set aside the suspension when it appears
12 to be in the interest of justice to do so, with due regard to
13 maintaining the integrity of, and confidence in, the practice
14 regulated by the office.

15 (d) (1) Discipline may be ordered against a licensee or
16 registrant in accordance with the laws and regulations of the office
17 when the time for appeal has elapsed, the judgment of conviction
18 has been affirmed on appeal, or an order granting probation is
19 made suspending the imposition of sentence, irrespective of a
20 subsequent order under Section 1203.4 of the Penal Code allowing
21 the person to withdraw his or her plea of guilty and to enter a plea
22 of not guilty, setting aside the verdict of guilty, or dismissing the
23 accusation, complaint, information, or indictment.

24 (2) The issue of penalty shall be heard by an administrative law
25 judge from the Office of Administrative Hearings. The hearing
26 shall not be had until the judgment of conviction has become final
27 or, irrespective of a subsequent order under Section 1203.4 of the
28 Penal Code, an order granting probation has been made
29 suspending the imposition of sentence, except that a licensee or
30 registrant may, at his or her option, elect to have the issue of
31 penalty decided before those time periods have elapsed. Where
32 the licensee or registrant so elects, the issue of penalty shall be
33 heard in the manner described in subdivision (b) at the hearing
34 to determine whether the conviction was substantially related to
35 the qualifications, functions, or duties of a licensee or registrant.
36 If the conviction of a licensee or registrant who has made this
37 election is overturned on appeal, any discipline ordered pursuant
38 to this section shall automatically cease. Nothing in this subdivision
39 shall prohibit the office from pursuing disciplinary action based
40 on any cause other than the overturned conviction.

1 (e) *The record of the proceedings resulting in a conviction,*
2 *including a transcript of the testimony in those proceedings, may*
3 *be received in evidence.*

4 (f) *Any other provision of law setting forth a procedure for the*
5 *suspension or revocation of a license or certificate issued by the*
6 *office shall not apply to proceedings conducted pursuant to this*
7 *section.*

8 *SEC. 33. Section 11319.3 is added to the Business and*
9 *Professions Code, to read:*

10 *11319.3. (a) (1) A licensee or registrant shall report any of*
11 *the following to the office:*

12 (A) *The bringing of an indictment or information charging a*
13 *felony against the licensee or registrant.*

14 (B) *The arrest of the licensee or registrant.*

15 (C) *The conviction of the licensee or registrant, including any*
16 *verdict of guilty, or plea of guilty or no contest, of any felony or*
17 *misdemeanor.*

18 (D) *Any disciplinary action taken by another licensing entity*
19 *or authority of this state or of another state or an agency of the*
20 *federal government.*

21 (2) *The report required by this subdivision shall be made in*
22 *writing within 30 days of the date of the bringing of the indictment*
23 *or the charging of a felony, the arrest, the conviction, or the*
24 *disciplinary action.*

25 (b) *Failure to make a report required by this section shall be a*
26 *public offense punishable by a fine not to exceed five thousand*
27 *dollars (\$5,000) and shall constitute a cause for discipline.*

28 *SEC. 34. Section 11319.4 is added to the Business and*
29 *Professions Code, to read:*

30 *11319.4. A licensee or registrant shall identify himself or*
31 *herself as a licensee or registrant of the office to law enforcement*
32 *and the court upon being arrested or charged with a misdemeanor*
33 *or felony. The office shall inform its licensees and registrants of*
34 *this requirement.*

35 *SEC. 35. Section 11319.5 is added to the Business and*
36 *Professions Code, to read:*

37 *11319.5. Within 10 days after a judgment by a court of this*
38 *state that a person who holds a license, certificate, or other similar*
39 *authority from the office has committed a crime, or is liable in a*
40 *judgment for an amount in excess of thirty thousand dollars*

1 (\$30,000) caused by his or her negligence, error or omission in
2 practice, or his or her rendering unauthorized professional
3 services, the clerk of the court that rendered the judgment shall
4 report that fact to the office.

5 SEC. 36. Section 11319.6 is added to the Business and
6 Professions Code, to read:

7 11319.6. (a) The district attorney, city attorney, or other
8 prosecuting agency shall notify the office and the clerk of the court,
9 in which the charges have been filed, of any filings against a
10 licensee or registrant of the office charging a felony immediately
11 upon obtaining information that the defendant is a licensee or
12 registrant of the office. The notice shall identify the licensee or
13 registrant and describe the crimes charged and the facts alleged.
14 The prosecuting agency shall also notify the clerk of the court in
15 which the action is pending that the defendant is a licensee or
16 registrant, and the clerk shall record prominently in the file that
17 the defendant holds a license or certificate from the office.

18 (b) The clerk of the court in which a licensee or registrant is
19 convicted of a crime shall, within 48 hours after the conviction,
20 transmit a certified copy of the record of conviction to the office.

21 SEC. 37. Section 11319.7 is added to the Business and
22 Professions Code, to read:

23 11319.7. (a) The clerk of the court shall transmit any felony
24 preliminary hearing transcript concerning a defendant licensee
25 or registrant to the office where the total length of the transcript
26 is under 800 pages and shall notify the department of any
27 proceeding where the transcript exceeds that length.

28 (b) In any case where a probation report on a licensee or
29 registrant is prepared for a court pursuant to Section 1203 of the
30 Penal Code, a copy of that report shall be transmitted by the
31 probation officer to the office.

32 SEC. 38. No reimbursement is required by this act pursuant
33 to Section 6 of Article XIII B of the California Constitution for
34 certain costs that may be incurred by a local agency or school
35 district because, in that regard, this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 *However, if the Commission on State Mandates determines that*
2 *this act contains other costs mandated by the state, reimbursement*
3 *to local agencies and school districts for those costs shall be made*
4 *pursuant to Part 7 (commencing with Section 17500) of Division*
5 *4 of Title 2 of the Government Code.*

O