

AMENDED IN SENATE MAY 31, 2011
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 amend Sections 27, 10004, 10050, 10080, 11301, 11302, 11310, 11313~~ *An act to amend Sections 27 and 10004* 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, 10186.1, 10186.2, 10186.9, 11310.1, 11313.2, 11315.7, 11315.9, 11319.1, 11319.2, 11319.3, 11319.4, 11319.5, 11319.6, and 11319.7 and 11319.3 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. Business and Professions.

(1) Existing law provides for the licensure, endorsement, and regulation of real estate brokers, 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 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; and 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 commissioner or the office director, the reasonable costs of investigating and prosecuting the disciplinary case against the licensee.~~

~~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.

The bill would require the secretary to review and evaluate the office, and make recommendations to the Legislature by October 1, 2014,

regarding whether the office should be, among other things, consolidated within the department or another state entity.

The bill would provide that, on and after January 1, 2015, the department and the office shall be subject to specified review by the appropriate policy committees of the Legislature.

(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: ~~yes~~-no.

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 subdivisions (c), (d), (e), and
- 4 (f) shall provide on the Internet information regarding the status

1 of every license issued by that entity in accordance with the
2 California Public Records Act (Chapter 3.5 (commencing with
3 Section 6250) of Division 7 of Title 1 of the Government Code)
4 and the Information Practices Act of 1977 (Chapter 1 (commencing
5 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
6 Code). The public information to be provided on the Internet shall
7 include information on suspensions and revocations of licenses
8 issued by the entity and other related enforcement action, including
9 accusations filed pursuant to the Administrative Procedure Act
10 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code) taken by the entity
12 relative to persons, businesses, or facilities subject to licensure or
13 regulation by the entity. The information may not include personal
14 information, including home telephone number, date of birth, or
15 social security number. Each entity shall disclose a licensee's
16 address of record. However, each entity shall allow a licensee to
17 provide a post office box number or other alternate address, instead
18 of his or her home address, as the address of record. This section
19 shall not preclude an entity from also requiring a licensee, who
20 has provided a post office box number or other alternative mailing
21 address as his or her address of record, to provide a physical
22 business address or residence address only for the entity's internal
23 administrative use and not for disclosure as the licensee's address
24 of record or disclosure on the Internet.

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

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 Board for Professional Engineers, Land Surveyors, and
32 Geologists shall disclose information on its registrants and
33 licensees.

34 (2) The Structural Pest Control Board shall disclose information
35 on its licensees, including applicators, field representatives, and
36 operators in the areas of fumigation, general pest and wood
37 destroying pests and organisms, and wood roof cleaning and
38 treatment.

39 (3) The Bureau of Automotive Repair shall disclose information
40 on its licensees, including auto repair dealers, smog stations, lamp

1 and brake stations, smog check technicians, and smog inspection
2 certification stations.

3 (4) The Bureau of Electronic and Appliance Repair, Home
4 Furnishings, and Thermal Insulation shall disclose information on
5 its licensees and registrants, including major appliance repair
6 dealers, combination dealers (electronic and appliance), electronic
7 repair dealers, service contract sellers, and service contract
8 administrators.

9 (5) The Cemetery and Funeral Bureau shall disclose information
10 on its licensees, including cemetery brokers, cemetery salespersons,
11 cemetery managers, crematory managers, cemetery authorities,
12 crematories, cremated remains disposers, embalmers, funeral
13 establishments, and funeral directors.

14 (6) The Professional Fiduciaries Bureau shall disclose
15 information on its licensees.

16 (7) The Contractors' State License Board shall disclose
17 information on its licensees and registrants in accordance with
18 Chapter 9 (commencing with Section 7000) of Division 3. In
19 addition to information related to licenses as specified in
20 subdivision (a), the board shall also disclose information provided
21 to the board by the Labor Commissioner pursuant to Section 98.9
22 of the Labor Code.

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

27 (9) The California Board of Accountancy shall disclose
28 information on its licensees and registrants.

29 (10) The California Architects Board shall disclose information
30 on its licensees, including architects and landscape architects.

31 (11) The State Athletic Commission shall disclose information
32 on its licensees and registrants.

33 (12) The State Board of Barbering and Cosmetology shall
34 disclose information on its licensees.

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

37 (d) The State Board of Chiropractic Examiners shall disclose
38 information on its licensees.

39 (e) The Department of Real Estate shall disclose information
40 on its licensees.

1 (f) The Office of Real Estate Appraisers shall disclose
2 information on its licensees and registrants.

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

5 ~~SEC. 2. Section 10002 is added to the Business and Professions~~
6 ~~Code, to read:~~

7 ~~10002. “Commission” refers to the Real Estate Advisory~~
8 ~~Commission.~~

9 ~~SEC. 3. Section 10002.5 is added to the Business and~~
10 ~~Professions Code, to read:~~

11 ~~10002.5. “Member” refers to a member of the Real Estate~~
12 ~~Advisory Commission.~~

13 ~~SEC. 4.~~

14 ~~SEC. 2. Section 10004 of the Business and Professions Code~~
15 ~~is amended to read:~~

16 ~~10004. “Department” means the Department of Real Estate in~~
17 ~~the Business, Transportation and Housing Agency.~~

18 ~~SEC. 5. Section 10050 of the Business and Professions Code~~
19 ~~is amended to read:~~

20 ~~10050. There is in the Business and Transportation Agency a~~
21 ~~Department of Real Estate, the chief officer of which department~~
22 ~~is named the Real Estate Commissioner.~~

23 ~~It shall be the principal responsibility of the commissioner to~~
24 ~~enforce all laws in this part (commencing with Section 10000),~~
25 ~~Chapter 1 (commencing with Section 11000) of Part 2, and Part~~
26 ~~3 (commencing with Section 11300) of this division in a manner~~
27 ~~which achieves the maximum protection for the purchasers of real~~
28 ~~property and those persons dealing with real estate licensees.~~

29 ~~SEC. 6.~~

30 ~~SEC. 3. Section 10050.1 is added to the Business and~~
31 ~~Professions Code, to read:~~

32 ~~10050.1. Protection of the public shall be the highest priority~~
33 ~~for the Department of Real Estate in exercising its licensing,~~
34 ~~regulatory, and disciplinary functions. Whenever the protection~~
35 ~~of the public is inconsistent with other interests sought to be~~
36 ~~promoted, the protection of the public shall be paramount.~~

37 ~~SEC. 7. Section 10054 is added to the Business and Professions~~
38 ~~Code, to read:~~

39 ~~10054. (a) The commissioner shall appoint a Real Estate~~
40 ~~Advisory Commission to consult with and advise the commissioner~~

1 on the department’s policies and procedures in protecting the public
 2 and in administering the provisions of this part, Chapter 1
 3 (commencing with Section 11000) of Part 2, and Part 3
 4 (commencing with Section 11300). The commission shall be
 5 comprised of 11 members, five of whom shall be real estate brokers
 6 licensed under this part and six of whom shall be public members.
 7 The commissioner shall preside at commission meetings.

8 (b) Two of the licensed members shall hold a mortgage loan
 9 originator license endorsement from the department. One public
 10 member shall be a consumer advocate and one public member
 11 shall be a local law enforcement representative.

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

16 SEC. 8. Section 10055 is added to the Business and Professions
 17 Code, to read:

18 10055. (a) At the meetings described in Section 10057, the
 19 commissioner shall meet, consult with, and advise the commission
 20 on the functions and policies of the department and on how the
 21 department may best serve the people of the state by, among other
 22 things, recognizing the legitimate needs of the industry regulated
 23 by the department and the department’s licensees while maintaining
 24 protection of the public as the department’s highest priority.

25 (b) At the meetings described in Section 10057, the commission
 26 shall solicit the views and suggestions of the public and of the
 27 licensees of the department.

28 SEC. 9. Section 10056 is added to the Business and Professions
 29 Code, to read:

30 10056. The commission may make policy recommendations
 31 and suggestions to the commissioner as it deems beneficial and
 32 appropriate.

33 SEC. 10. Section 10057 is added to the Business and
 34 Professions Code, to read:

35 10057. The commissioner shall call meetings of the commission
 36 at least four times each year and written notice of the time and
 37 place of each meeting shall be given to the members and such
 38 other persons as shall have requested notice and shall be posted
 39 prominently on the department’s Internet Web site at least 10 days
 40 before such meeting.

1 ~~SEC. 11. Section 10058 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~10058. The meetings of the commission are subject to~~
4 ~~Bagley-Keene Open Meeting Act (Article 9 (commencing with~~
5 ~~Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of~~
6 ~~the Government Code).~~

7 ~~SEC. 12. Section 10060 is added to the Business and~~
8 ~~Professions Code, to read:~~

9 ~~10060. All records of the commission shall be open to~~
10 ~~inspection by the public during regular office hours, except as~~
11 ~~otherwise provided by law.~~

12 ~~SEC. 13. Section 10080 of the Business and Professions Code~~
13 ~~is amended to read:~~

14 ~~10080. The commissioner may adopt, amend, or repeal rules~~
15 ~~and regulations that are reasonably necessary for the enforcement~~
16 ~~of the provisions of this part and of Chapter 1 (commencing with~~
17 ~~Section 11000) of Part 2 of this division. The rules and regulations~~
18 ~~shall be adopted, amended, or repealed in accordance with the~~
19 ~~provisions of the Administrative Procedure Act. In addition to~~
20 ~~other notices required by law, the commissioner shall notify the~~
21 ~~Real Estate Advisory Commission of the intention to adopt rules~~
22 ~~and regulations at least 30 days prior to such adoption.~~

23 ~~SEC. 14.~~

24 ~~SEC. 4. Section 10100.4 is added to the Business and~~
25 ~~Professions Code, to read:~~

26 ~~10100.4. (a) Notwithstanding Section 11415.60 of the~~
27 ~~Government Code, the department may enter into a settlement~~
28 ~~with a licensee or applicant instead of the issuance of an accusation~~
29 ~~or statement of issues against that licensee or applicant.~~

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

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

36 ~~(d) Any settlement with a licensee executed pursuant to this~~
37 ~~section shall be considered discipline and a public record and shall~~
38 ~~be posted on the department's Internet Web site. Any settlement~~
39 ~~against an applicant executed pursuant to this section shall be~~

1 considered a public record and shall be posted on the department's
2 Internet Web site: *by the department.*

3 ~~SEC. 15.~~

4 *SEC. 5.* Section 10106 is added to the Business and Professions
5 Code, to read:

6 10106. (a) Except as otherwise provided by law, in any order
7 issued in resolution of a disciplinary proceeding before the
8 department, the commissioner may request the administrative law
9 judge to direct a licensee found to have committed a violation of
10 this part to pay a sum not to exceed the reasonable costs of the
11 investigation and enforcement of the case.

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

15 (c) A certified copy of the actual costs, or a good faith estimate
16 of costs where actual costs are not available, signed by the
17 commissioner or the commissioner's designated representative,
18 shall be prima facie evidence of reasonable costs of investigation
19 and prosecution of the case. The costs shall include the amount of
20 investigative and enforcement costs up to the date of the hearing,
21 including, but not limited to, charges imposed by the Attorney
22 General.

23 (d) The administrative law judge shall make a proposed finding
24 of the amount of reasonable costs of investigation and prosecution
25 of the case when requested pursuant to subdivision (a). The finding
26 of the administrative law judge with regard to costs shall not be
27 reviewable by the commissioner to increase the cost award. The
28 commissioner may reduce or eliminate the cost award, or remand
29 to the administrative law judge where the proposed decision fails
30 to make a finding on costs requested pursuant to subdivision (a).

31 (e) Where an order for recovery of costs is made and timely
32 payment is not made as directed in the commissioner's decision,
33 the commissioner may enforce the order for repayment in any
34 appropriate court. This right of enforcement shall be in addition
35 to any other rights the commissioner may have as to any licensee
36 to pay costs.

37 (f) In any action for recovery of costs, proof of the
38 commissioner's decision shall be conclusive proof of the validity
39 of the order of payment and the terms for payment.

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

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

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

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

16 ~~SEC. 16.~~

17 *SEC. 6.* Section 10186 is added to the Business and Professions
18 Code, to read:

19 10186. (a) When the commissioner disciplines a licensee by
20 placing him or her on probation, the commissioner may, in addition
21 to any other terms and conditions placed upon the licensee, require
22 the licensee to pay the monetary costs associated with monitoring
23 the licensee's probation.

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

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

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

35 ~~SEC. 17.~~

36 *SEC. 7.* Section 10186.1 is added to the Business and
37 Professions Code, to read:

38 10186.1. (a) A license or an endorsement of the department
39 shall be suspended automatically during any time that the licensee
40 is incarcerated after conviction of a felony, regardless of whether

1 the conviction has been appealed. The department shall,
2 immediately upon receipt of the certified copy of the record of
3 conviction, determine whether the license or endorsement has been
4 automatically suspended by virtue of the licensee's incarceration,
5 and if so, the duration of that suspension. The department shall
6 notify the licensee of the suspension and of his or her right to elect
7 to have the issue of penalty heard as provided in subdivision (d).

8 (b) If after a hearing before an administrative law judge from
9 the Office of Administrative Hearings it is determined that the
10 felony for which the licensee was convicted was substantially
11 related to the qualifications, functions, or duties of a licensee, the
12 commissioner upon receipt of the certified copy of the record of
13 conviction, shall suspend the license or endorsement until the time
14 for appeal has elapsed, if no appeal has been taken, or until the
15 judgment of conviction has been affirmed on appeal or has
16 otherwise become final, and until further order of the department.

17 (c) Notwithstanding subdivision (b), a conviction of a charge
18 of violating any federal statute or regulation or any statute or
19 regulation of this state regulating dangerous drugs or controlled
20 substances, or a conviction of Section 187, 261, 262, or 288 of the
21 Penal Code, shall be conclusively presumed to be substantially
22 related to the qualifications, functions, or duties of a licensee and
23 no hearing shall be held on this issue. However, upon its own
24 motion or for good cause shown, the commissioner may decline
25 to impose or may set aside the suspension when it appears to be
26 in the interest of justice to do so, with due regard to maintaining
27 the integrity of, and confidence in, the practice regulated by the
28 department.

29 (d) (1) Discipline may be ordered against a licensee in
30 accordance with the laws and regulations of the department when
31 the time for appeal has elapsed, the judgment of conviction has
32 been affirmed on appeal, or an order granting probation is made
33 suspending the imposition of sentence, irrespective of a subsequent
34 order under Section 1203.4 of the Penal Code allowing the person
35 to withdraw his or her plea of guilty and to enter a plea of not
36 guilty, setting aside the verdict of guilty, or dismissing the
37 accusation, complaint, information, or indictment.

38 (2) The issue of penalty shall be heard by an administrative law
39 judge from the Office of Administrative Hearings. The hearing
40 shall not be held until the judgment of conviction has become final

1 or, irrespective of a subsequent order under Section 1203.4 of the
2 Penal Code, an order granting probation has been made suspending
3 the imposition of sentence, except that a licensee may, at his or
4 her option, elect to have the issue of penalty decided before those
5 time periods have elapsed. Where the licensee so elects, the issue
6 of penalty shall be heard in the manner described in subdivision
7 (b) at the hearing to determine whether the conviction was
8 substantially related to the qualifications, functions, or duties of a
9 licensee. If the conviction of a licensee who has made this election
10 is overturned on appeal, any discipline ordered pursuant to this
11 section shall automatically cease. Nothing in this subdivision shall
12 prohibit the department from pursuing disciplinary action based
13 on any cause other than the overturned conviction.

14 (e) The record of the proceedings resulting in a conviction,
15 including a transcript of the testimony in those proceedings, may
16 be received in evidence.

17 (f) Any other provision of law setting forth a procedure for the
18 suspension or revocation of a license or endorsement issued by
19 the department shall not apply to proceedings conducted pursuant
20 to this section.

21 ~~SEC. 18.~~

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

24 10186.2. (a) (1) A licensee shall report any of the following
25 to the department:

26 (A) The bringing of an indictment or information charging a
27 felony against the licensee.

28 (B) The arrest of the licensee.

29 (C) The conviction of the licensee, including any verdict of
30 guilty, or plea of guilty or no contest, of any felony or
31 misdemeanor.

32 (D) Any disciplinary action taken by another licensing entity
33 or authority of this state or of another state or an agency of the
34 federal government.

35 (2) The report required by this subdivision shall be made in
36 writing within 30 days of the date of the bringing of the indictment
37 or the charging of a felony, the arrest, the conviction, or the
38 disciplinary action.

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

4 SEC. 19. Section 10186.3 is added to the Business and
5 Professions Code, to read:

6 10186.3. A licensee shall identify himself or herself as a
7 licensee of the department to law enforcement and the court upon
8 being arrested or charged with a misdemeanor or felony. The
9 department shall inform its licensees of this requirement.

10 SEC. 20. Section 10186.4 is added to the Business and
11 Professions Code, to read:

12 10186.4. Within 10 days after a judgment by a court of this
13 state that a person who holds a license, endorsement, or other
14 similar authority from the department has committed a crime, or
15 is liable in a judgment for an amount in excess of thirty thousand
16 dollars (\$30,000) caused by his or her negligence, error or omission
17 in practice, or his or her rendering unauthorized professional
18 services, the clerk of the court that rendered the judgment shall
19 report that fact to the department.

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

22 10186.5. (a) The district attorney, city attorney, or other
23 prosecuting agency shall notify the department and the clerk of
24 the court, in which the charges have been filed, of any filings
25 against a licensee of the department charging a felony immediately
26 upon obtaining information that the defendant is a licensee of the
27 department. The notice shall identify the licensee and describe the
28 crimes charged and the facts alleged. The prosecuting agency shall
29 also notify the clerk of the court in which the action is pending
30 that the defendant is a licensee, and the clerk shall record
31 prominently in the file that the defendant holds a license from the
32 department.

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

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

38 10186.7. (a) The clerk of the court shall transmit any felony
39 preliminary hearing transcript concerning a defendant licensee to
40 the department where the total length of the transcript is under 800

1 pages and shall notify the department of any proceeding where the
2 transcript exceeds that length.

3 ~~(b) In any case where a probation report on a licensee is prepared~~
4 ~~for a court pursuant to Section 1203 of the Penal Code, a copy of~~
5 ~~that report shall be transmitted by the probation officer to the~~
6 ~~department.~~

7 ~~SEC. 23.~~

8 *SEC. 9.* Section 10186.8 is added to the Business and
9 Professions Code, to read:

10 10186.8. (a) (1) The Secretary of the Business, Transportation
11 and Housing Agency shall appoint a Department of Real Estate
12 Enforcement Program Monitor no later than January 31, 2012.
13 The secretary may retain a person for this position by a personal
14 services contract, the Legislature finding, pursuant to Section
15 19130 of the Government Code, that this is a new state function.

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

18 (b) The secretary shall advertise the availability of this position.
19 The requirements for this position include experience in conducting
20 investigations and familiarity with state laws, rules, and procedures
21 pertaining to the department and familiarity with relevant
22 administrative procedures.

23 (c) (1) The enforcement program monitor shall monitor and
24 evaluate the department's discipline system and procedures, making
25 as his or her highest priority the reform and reengineering of the
26 department's enforcement program and operations, ~~and the~~
27 *improvement of the overall efficiency of the department's*
28 *disciplinary system, and the improvement of the department's*
29 *efforts to receive public input from its licensees and from members*
30 *of the public.*

31 (2) This monitoring duty shall be on a continuing basis for a
32 period of no more than two years from the date of the enforcement
33 program monitor's appointment and shall include, but not be
34 limited to, improving the quality and consistency of complaint
35 processing and investigation and reducing the timeframes for each,
36 reducing any complaint backlog, assuring consistency in the
37 application of sanctions or discipline imposed on licensees. The
38 monitoring duties shall include the following areas:

39 (A) The accurate and consistent implementation of the laws and
40 rules affecting discipline.

1 (B) Staff concerns regarding disciplinary matters or procedures.

2 (C) Appropriate utilization of licensed professionals to
3 investigate complaints.

4 (D) The department's cooperation with other governmental
5 entities charged with enforcing related laws and regulations
6 regarding real estate licensees.

7 *(E) Whether the department's efforts to receive public input*
8 *would be improved by the establishment of a real estate advisory*
9 *commission required by statute.*

10 (3) The enforcement program monitor shall exercise no authority
11 over the department's discipline operations or staff; however, the
12 department and its staff shall cooperate with him or her, and the
13 department shall provide data, information, and case files as
14 requested by the enforcement program monitor to perform all of
15 his or her duties.

16 (4) The secretary shall assist the enforcement program monitor
17 in the performance of his or her duties, and the enforcement
18 program monitor shall have the same investigative authority as
19 the secretary.

20 (d) The enforcement program monitor shall submit an initial
21 written report of his or her findings and conclusions to the
22 department and the Legislature no later than August 1, 2012, and
23 every six months thereafter, and be available to make oral reports
24 to each, if requested to do so. The enforcement program monitor
25 may also provide additional information to either the secretary or
26 the Legislature at his or her discretion or at the request of either
27 the secretary or the Legislature. The enforcement *program* monitor
28 shall make his or her reports available to the public or the media.
29 The enforcement program monitor shall make every effort to
30 provide the department with an opportunity to reply to any facts,
31 findings, issues, or conclusions in his or her reports with which
32 the department may disagree.

33 (e) The department shall reimburse the secretary for all of the
34 costs associated with the employment of an enforcement program
35 monitor.

36 (f) This section shall remain in effect only until January 31,
37 2014, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before January 31, 2014, deletes or extends that
39 date.

1 SEC. 10. Section 10186.9 is added to the Business and
2 Professions Code, to read:

3 10186.9. Notwithstanding any other provision of law, on and
4 after January 1, 2015, the department shall be subject to review
5 by the appropriate policy committees of the Legislature. The review
6 shall include, but shall not be limited to, an evaluation of the
7 reports submitted by the enforcement program monitor pursuant
8 to subdivision (d) of Section 10186.8.

9 SEC. 24. ~~Section 11301 of the Business and Professions Code~~
10 ~~is amended to read:~~

11 ~~11301. There is hereby created within the Department of Real~~
12 ~~Estate an Office of Real Estate Appraisers to administer and~~
13 ~~enforce this part.~~

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

16 11302. For the purpose of applying this part, the following
17 terms, unless otherwise expressly indicated, shall mean and have
18 the following definitions:

19 (a) ~~“Agency” means the Business, Transportation and Housing~~
20 ~~Agency.~~

21 (b) ~~“Appraisal” means a written statement independently and~~
22 ~~impartially prepared by a qualified appraiser setting forth an~~
23 ~~opinion in a federally related transaction as to the market value of~~
24 ~~an adequately described property as of a specific date, supported~~
25 ~~by the presentation and analysis of relevant market information.~~

26 The term ~~“appraisal”~~ does not include an opinion given by a real
27 estate licensee or engineer or land surveyor in the ordinary course
28 of his or her business in connection with a function for which a
29 license is required under Chapter 7 (commencing with Section
30 6700) or Chapter 15 (commencing with Section 8700) of Division
31 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
32 (commencing with Section 10500) and the opinion shall not be
33 referred to as an appraisal. This part does not apply to a probate
34 referee acting pursuant to Sections 400 to 408, inclusive, of the
35 Probate Code unless the appraised transaction is federally related.

36 (c) ~~“Appraisal Foundation” means the Appraisal Foundation~~
37 ~~that was incorporated as an Illinois not-for-profit corporation on~~
38 ~~November 30, 1987.~~

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

1 ~~(A) Maintains an approved list or lists, containing 11 or more~~
2 ~~independent contractor appraisers licensed or certified pursuant~~
3 ~~to this part, or employs 11 or more appraisers licensed or certified~~
4 ~~pursuant to this part.~~

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

6 ~~(C) For a fee paid by one or more of its clients, delegates~~
7 ~~appraisal assignments for completion by its independent contractor~~
8 ~~or employee appraisers.~~

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

12 ~~(A) Any bank, credit union, trust company, savings and loan~~
13 ~~association, or industrial loan company doing business under the~~
14 ~~authority of, or in accordance with, a license, certificate, or charter~~
15 ~~issued by the United States or any state, district, territory, or~~
16 ~~commonwealth of the United States that is authorized to transact~~
17 ~~business in this state.~~

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

21 ~~(C) Any residential mortgage lender or residential mortgage~~
22 ~~servicer licensed pursuant to Division 20 (commencing with~~
23 ~~Section 50000) of the Financial Code, when acting under the~~
24 ~~authority of that license.~~

25 ~~(D) Any real estate broker licensed pursuant to Part 1~~
26 ~~(commencing with Section 10000) of Division 4 of the Business~~
27 ~~and Professions Code, when acting under the authority of that~~
28 ~~license.~~

29 ~~(3) “Appraisal management company” does not include any~~
30 ~~person licensed to practice law in this state who is working with~~
31 ~~or on behalf of a client of that person in connection with one or~~
32 ~~more appraisals for that client.~~

33 ~~(e) “Appraisal Subcommittee” means the Appraisal~~
34 ~~Subcommittee of the Federal Financial Institutions Examination~~
35 ~~Council.~~

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

37 ~~(1) An officer or director of an appraisal management company;~~
38 ~~or an individual who holds a 10 percent or greater ownership~~
39 ~~interest in an appraisal management company.~~

1 ~~(2) An individual employed, appointed, or authorized by an~~
2 ~~appraisal management company that has the authority to enter into~~
3 ~~a contractual relationship with clients for the performance of~~
4 ~~appraisal services and that has the authority to enter into~~
5 ~~agreements with independent appraisers for the completion of~~
6 ~~appraisals.~~

7 ~~(3) An individual who possesses the power to direct or cause~~
8 ~~the direction of the management or policies of an appraisal~~
9 ~~management company.~~

10 ~~(g) “Director” means the Director of the Office of Real Estate~~
11 ~~Appraisers.~~

12 ~~(h) “Federal financial institutions regulatory agency” means the~~
13 ~~Federal Reserve Board, Federal Deposit Insurance Corporation,~~
14 ~~Office of the Comptroller of the Currency, Office of Thrift~~
15 ~~Supervision, Federal Home Loan Bank System, National Credit~~
16 ~~Union Administration, and any other agency determined by the~~
17 ~~director to have jurisdiction over transactions subject to this part.~~

18 ~~(i) “Federally related real estate appraisal activity” means the~~
19 ~~act or process of making or performing an appraisal on real estate~~
20 ~~or real property in a federally related transaction and preparing an~~
21 ~~appraisal as a result of that activity.~~

22 ~~(j) “Federally related transaction” means any real estate-related~~
23 ~~financial transaction which a federal financial institutions~~
24 ~~regulatory agency engages in, contracts for or regulates and which~~
25 ~~requires the services of a state licensed real estate appraiser~~
26 ~~regulated by this part. This term also includes any transaction~~
27 ~~identified as such by a federal financial institutions regulatory~~
28 ~~agency.~~

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

32 ~~(l) “Licensure” means the procedures and requirements a person~~
33 ~~shall comply with in order to qualify for issuance of a license and~~
34 ~~includes the issuance of the license.~~

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

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

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

1 (p) ~~“Uniform Standards of Professional Appraisal Practice” are~~
2 ~~the standards of professional appraisal practice established by the~~
3 ~~Appraisal Foundation.~~

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

6 (r) ~~“Commissioner” means the Real Estate Commissioner.~~

7 (s) ~~“Department” means the Department of Real Estate in the~~
8 ~~Business, Transportation and Housing Agency.~~

9 ~~SEC. 26. Section 11310 of the Business and Professions Code~~
10 ~~is amended to read:~~

11 ~~11310. The Governor shall appoint, subject to confirmation~~
12 ~~by the Senate, the Director of the Office of Real Estate Appraisers~~
13 ~~who shall administer the licensing and certification program for~~
14 ~~real estate appraisers. In making the appointment, consideration~~
15 ~~shall be given to the qualifications of an individual that demonstrate~~
16 ~~knowledge of the real estate appraisal profession.~~

17 (a) ~~The director shall serve at the pleasure of the Governor. The~~
18 ~~director shall administer the licensing and certification program~~
19 ~~in consultation with the Governor and the commissioner. The~~
20 ~~salary for the director shall be fixed and determined by the~~
21 ~~commissioner with approval of the Department of Personnel~~
22 ~~Administration.~~

23 (b) ~~The director shall not be actively engaged in the appraisal~~
24 ~~business or any other affected industry for the term of appointment,~~
25 ~~and thereafter the director shall be subject to Section 87406 of the~~
26 ~~Government Code.~~

27 (c) ~~Institutional safeguards shall be established and maintained~~
28 ~~between the department and the office and its employees to protect~~
29 ~~the independence of the appraiser regulatory function from~~
30 ~~realty-related activities consistent with Title XI of the Financial~~
31 ~~Institutions Reform, Recovery, and Enforcement Act of 1989, as~~
32 ~~amended, by the Real Estate Appraisal Reform Amendments (12~~
33 ~~U.S.C. Secs. 3331-3351). Decisions relating to appraisal license~~
34 ~~issuance, revocation, and disciplinary actions shall be made by the~~
35 ~~director and shall not be made or influenced by the department or~~
36 ~~the commissioner.~~

37 (d) ~~The director, in consultation with the commissioner and in~~
38 ~~accordance with the State Civil Service Act, may appoint and fix~~
39 ~~the compensation of legal, clerical, technical, investigation, and~~
40 ~~auditing personnel as may be necessary to carry out this part. All~~

1 ~~personnel shall perform their respective duties under the~~
2 ~~supervision and direction of the director.~~

3 ~~(e) The director may appoint not more than four deputy directors~~
4 ~~as he or she deems appropriate. The deputy directors shall perform~~
5 ~~their respective duties under the supervision and direction of the~~
6 ~~director.~~

7 ~~(f) Every power granted to or duty imposed upon the director~~
8 ~~under this part may be exercised or performed in the name of the~~
9 ~~director by the deputy directors, subject to conditions and~~
10 ~~limitations as the director may prescribe.~~

11 ~~SEC. 27.~~

12 ~~SEC. 11.~~ Section 11310.1 is added to the Business and
13 Professions Code, to read:

14 11310.1. Protection of the public shall be the highest priority
15 for the Office of Real Estate Appraisers in exercising its licensing,
16 regulatory, and disciplinary functions. Whenever the protection
17 of the public is inconsistent with other interests sought to be
18 promoted, the protection of the public shall be paramount.

19 ~~SEC. 28.~~ Section 11313 of the Business and Professions Code
20 is amended to read:

21 ~~11313. The office is under the supervision and control of the~~
22 ~~commissioner. The duty of administering this part is vested in the~~
23 ~~director and he or she is responsible to the commissioner therefor.~~
24 ~~The director shall adopt and enforce rules and regulations as are~~
25 ~~determined reasonably necessary to carry out the purposes of this~~
26 ~~part. Those rules and regulations shall be adopted pursuant to~~
27 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~
28 ~~3 of Title 2 of the Government Code.~~

29 ~~SEC. 12.~~ Section 11313.2 is added to the Business and
30 Professions Code, to read:

31 *11313.2. (a) The secretary shall review and evaluate the office,*
32 *and make recommendations to the Legislature by October 1, 2014,*
33 *regarding whether the office should be consolidated within the*
34 *Department of Real Estate, or consolidated within any other state*
35 *department or office, and shall provide appropriate justification*
36 *for that recommendation.*

37 *(b) Notwithstanding any other provision of law, on and after*
38 *January 1, 2015, the office shall be subject to review by the*
39 *appropriate policy committees of the Legislature. The review shall*

1 *include, but shall not be limited to, the recommendations of the*
2 *secretary regarding the office.*

3 ~~SEC. 29.~~

4 *SEC. 13.* Section 11315.7 is added to the Business and
5 Professions Code, to read:

6 11315.7. (a) Notwithstanding Section 11415.60 of the
7 Government Code, the office may enter into a settlement with a
8 licensee or applicant instead of the issuance of an accusation or
9 statement of issues against that licensee or applicant.

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

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

16 (d) Any settlement with a licensee executed pursuant to this
17 section shall be considered discipline and a public record and shall
18 be posted on the office's Internet Web site. Any settlement with
19 an applicant executed pursuant to this section shall be considered
20 a public record and shall be posted on the office's Internet Web
21 site. *by the office.*

22 ~~SEC. 30.~~

23 *SEC. 14.* Section 11315.9 is added to the Business and
24 Professions Code, to read:

25 11315.9. (a) Except as otherwise provided by law, in any order
26 issued in resolution of a disciplinary proceeding before the office,
27 the director may request the administrative law judge to direct a
28 licensee found to have committed a violation of this part to pay a
29 sum not to exceed the reasonable costs of the investigation and
30 enforcement of the case.

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

34 (c) A certified copy of the actual costs, or a good faith estimate
35 of costs where actual costs are not available, signed by the director
36 or the director's designated representative shall be prima facie
37 evidence of reasonable costs of investigation and prosecution of
38 the case. The costs shall include the amount of investigative and
39 enforcement costs up to the date of the hearing, including, but not
40 limited to, charges imposed by the Attorney General.

1 (d) The administrative law judge shall make a proposed finding
2 of the amount of reasonable costs of investigation and prosecution
3 of the case when requested pursuant to subdivision (a). The finding
4 of the administrative law judge with regard to costs shall not be
5 reviewable by the director to increase the cost award. The director
6 may reduce or eliminate the cost award, or remand to the
7 administrative law judge where the proposed decision fails to make
8 a finding on costs requested pursuant to subdivision (a).

9 (e) Where an order for recovery of costs is made and timely
10 payment is not made as directed in the director's decision, the
11 office may enforce the order for repayment in any appropriate
12 court. This right of enforcement shall be in addition to any other
13 rights the office may have as to any licensee to pay costs.

14 (f) In any action for recovery of costs, proof of the director's
15 decision shall be conclusive proof of the validity of the order of
16 payment and the terms for payment.

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

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

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

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

32 ~~SEC. 31.~~

33 *SEC. 15.* Section 11319.1 is added to the Business and
34 Professions Code, to read:

35 11319.1. (a) When the director disciplines a licensee or
36 registrant by placing him or her on probation, the director may, in
37 addition to any other terms and conditions placed upon the licensee
38 or registrant, require the licensee or registrant to pay the monetary
39 costs associated with monitoring the licensee's or registrant's
40 probation.

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

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

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

12 ~~SEC. 32.~~

13 *SEC. 16.* Section 11319.2 is added to the Business and
14 Professions Code, to read:

15 11319.2. (a) A license of a licensee or a certificate of a
16 registrant shall be suspended automatically during any time that
17 the licensee or registrant is incarcerated after conviction of a felony,
18 regardless of whether the conviction has been appealed. The office
19 shall, immediately upon receipt of the certified copy of the record
20 of conviction, determine whether the license of the licensee or
21 certificate of the registrant has been automatically suspended by
22 virtue of the licensee's or registrant's incarceration, and if so, the
23 duration of that suspension. The office shall notify the licensee or
24 registrant in writing of the license or certificate suspension and of
25 his or her right to elect to have the issue of penalty heard as
26 provided in subdivision (d).

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

37 (c) Notwithstanding subdivision (b), a conviction of a charge
38 of violating any federal statute or regulation or any statute or
39 regulation of this state regulating dangerous drugs or controlled
40 substances, or a conviction of Section 187, 261, 262, or 288 of the

1 Penal Code, shall be conclusively presumed to be substantially
2 related to the qualifications, functions, or duties of a licensee or
3 registrant and no hearing shall be held on this issue. However,
4 upon its own motion or for good cause shown, the director may
5 decline to impose or may set aside the suspension when it appears
6 to be in the interest of justice to do so, with due regard to
7 maintaining the integrity of, and confidence in, the practice
8 regulated by the office.

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

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

35 (e) The record of the proceedings resulting in a conviction,
36 including a transcript of the testimony in those proceedings, may
37 be received in evidence.

38 (f) Any other provision of law setting forth a procedure for the
39 suspension or revocation of a license or certificate issued by the

1 office shall not apply to proceedings conducted pursuant to this
2 section.

3 ~~SEC. 33.~~

4 *SEC. 17.* Section 11319.3 is added to the Business and
5 Professions Code, to read:

6 11319.3. (a) (1) A licensee or registrant shall report any of
7 the following to the office:

8 (A) The bringing of an indictment or information charging a
9 felony against the licensee or registrant.

10 (B) The arrest of the licensee or registrant.

11 (C) The conviction of the licensee or registrant, including any
12 verdict of guilty, or plea of guilty or no contest, of any felony or
13 misdemeanor.

14 (D) Any disciplinary action taken by another licensing entity
15 or authority of this state or of another state or an agency of the
16 federal government.

17 (2) The report required by this subdivision shall be made in
18 writing within 30 days of the date of the bringing of the indictment
19 or the charging of a felony, the arrest, the conviction, or the
20 disciplinary action.

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

24 ~~SEC. 34.~~ Section 11319.4 is added to the Business and
25 Professions Code, to read:

26 11319.4. A licensee or registrant shall identify himself or
27 herself as a licensee or registrant of the office to law enforcement
28 and the court upon being arrested or charged with a misdemeanor
29 or felony. The office shall inform its licensees and registrants of
30 this requirement.

31 ~~SEC. 35.~~ Section 11319.5 is added to the Business and
32 Professions Code, to read:

33 11319.5. Within 10 days after a judgment by a court of this
34 state that a person who holds a license, certificate, or other similar
35 authority from the office has committed a crime, or is liable in a
36 judgment for an amount in excess of thirty thousand dollars
37 (\$30,000) caused by his or her negligence, error or omission in
38 practice, or his or her rendering unauthorized professional services,
39 the clerk of the court that rendered the judgment shall report that
40 fact to the office.

1 SEC. 36.— Section 11319.6 is added to the Business and
2 Professions Code, to read:

3 11319.6. (a) The district attorney, city attorney, or other
4 prosecuting agency shall notify the office and the clerk of the court,
5 in which the charges have been filed, of any filings against a
6 licensee or registrant of the office charging a felony immediately
7 upon obtaining information that the defendant is a licensee or
8 registrant of the office. The notice shall identify the licensee or
9 registrant and describe the crimes charged and the facts alleged.
10 The prosecuting agency shall also notify the clerk of the court in
11 which the action is pending that the defendant is a licensee or
12 registrant, and the clerk shall record prominently in the file that
13 the defendant holds a license or certificate from the office.

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

17 SEC. 37.— Section 11319.7 is added to the Business and
18 Professions Code, to read:

19 11319.7. (a) The clerk of the court shall transmit any felony
20 preliminary hearing transcript concerning a defendant licensee or
21 registrant to the office where the total length of the transcript is
22 under 800 pages and shall notify the department of any proceeding
23 where the transcript exceeds that length.

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

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

37 However, if the Commission on State Mandates determines that
38 this act contains other costs mandated by the state, reimbursement
39 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O