

AMENDED IN SENATE JUNE 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 469**

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**Introduced by Assembly Member Wagner**

February 19, 2013

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An act to amend ~~Section~~ *Sections 17511.1 and 17511.4* of the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 469, as amended, Wagner. Telephonic sellers: loan modifications.

Existing law provides for the regulation of telephonic sellers, and requires that a telephonic seller register with the Department of Justice *and file specified information with the department*, as specified. Existing law defines “telephonic seller” to include, among others, a person who represents or implies in a telephonic solicitation, whether or not initiated by the telephonic seller, that he or she is offering to make a loan, or to arrange or assist in arranging a loan or to assist in providing information ~~which that~~ may lead to the obtaining of a loan, with a specified exception. Existing law makes it a misdemeanor to solicit prospects on behalf of a telephonic seller who is not registered with the department.

This bill would include in the definition of telephonic sellers a person who represents or implies in a telephonic solicitation, whether initiated by the telephonic seller or made in response to inquiries generated by advertisements on behalf of the telephonic seller, that he or she is offering to arrange or assist in arranging the modification of an existing loan, or to assist in providing information ~~which that~~ may lead to the obtaining of a loan modification, as specified. *The bill would require these telephonic sellers to file certain information with the department, including the names and addresses of all persons who, in the previous*

24 months, obtained loan modifications for individuals who responded to the seller’s solicitations or representations. Because ~~this~~ the bill would expand the scope of a crime, it would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 17511.1 of the Business and Professions  
2 Code is amended to read:

3 17511.1. As used in this article, “telephonic seller” or “seller”  
4 means a person who, on his or her own behalf or through  
5 salespersons or through the use of an automatic dialing-announcing  
6 device, as defined in Section 2871 of the Public Utilities Code,  
7 causes a telephone solicitation or attempted telephone solicitation  
8 to occur ~~which~~ that meets the criteria specified in subdivision (a),  
9 (b), (c), or (d) and who is not exempted by subdivision (e), as  
10 follows:

11 (a) A telephone solicitation or attempted telephone solicitation  
12 wherein the telephonic seller initiates telephonic contact with a  
13 prospective purchaser and represents or implies one or more of  
14 the following:

15 (1) That a prospective purchaser who buys one or more items  
16 will also receive additional or other items, whether or not of the  
17 same type as purchased, without further cost. For purposes of this  
18 subdivision, “further cost” does not include actual postage or  
19 common carrier delivery charges, if any.

20 (2) That a prospective purchaser will receive a prize or gift, if  
21 the person also encourages the prospective purchaser to do either  
22 of the following:

23 (A) Purchase or rent any goods or services.

24 (B) Pay any money, including, but not limited to, a delivery or  
25 handling charge.

1 (3) That a prospective purchaser is able to obtain any item or  
2 service at a price ~~which~~ *that* the seller states or implies is below  
3 the regular price of the item or service offered. This paragraph  
4 shall not apply to retailers who, within the previous 12 months,  
5 have sold a majority of their goods or services through in-person  
6 sales at retail stores.

7 (4) That a prospective purchaser who buys office equipment or  
8 supplies will, because of some unusual event or imminent price  
9 increase, be able to buy these items at prices ~~which~~ *that* are below  
10 those that are usually charged or will be charged for the items.

11 (5) That the seller is a person other than the person he or she is.

12 (6) That the items for sale are manufactured or supplied by a  
13 person other than the actual manufacturer or supplier.

14 (7) That the seller is offering to sell the prospective purchaser  
15 any gold, silver, or other metals, including ~~coins,~~ *coins*; diamonds,  
16 rubies, sapphires, or other ~~stones,~~ *stones*; coal or other minerals,  
17 or any interest in oil, gas, or mineral fields, wells, or exploration  
18 sites, or any other investment opportunity of any type whatsoever.

19 (8) That the seller is offering to make a loan, or to arrange or  
20 assist in arranging a loan or modification of an existing loan, or  
21 to assist in providing information ~~which~~ *that* may lead to the  
22 obtaining of a loan or modification of an existing loan, unless no  
23 payment of any kind is made until the loan proceeds are disbursed  
24 to the borrower.

25 (9) That a prospective purchaser will receive a credit card, as  
26 defined in subdivision (a) of Section 1747.02 of the Civil Code,  
27 if the purchaser pays an upfront or preapplication fee for the credit  
28 card to the telephonic seller.

29 (b) A solicitation or attempted solicitation ~~which~~ *that* is made  
30 by telephone in response to inquiries generated by unrequested  
31 notifications sent by the seller to persons who have not previously  
32 purchased goods or services from the seller or who have not  
33 previously requested credit from the seller, to a prospective  
34 purchaser wherein the seller represents or implies to the recipient  
35 of the notification that any of the following applies to the recipient:

36 (1) That the recipient has in any manner been specially selected  
37 to receive the notification or the offer contained in the notification.

38 (2) That the recipient will receive a prize or gift if the recipient  
39 calls the seller.

1 (3) That if the recipient buys one or more items from the seller,  
2 the recipient will also receive additional or other items, whether  
3 or not of the same type as purchased, without further cost or at a  
4 cost ~~which~~ *that* the seller states or implies is less than the regular  
5 price of ~~such~~ *these* items.

6 However, this subdivision does not apply to the solicitation of  
7 sales by a catalog seller who periodically issues and delivers  
8 catalogs to potential purchasers by mail or by other means. This  
9 exception only applies if the catalog includes a written description  
10 or illustration and the sales price of each item of merchandise  
11 offered for sale, includes at least 24 full pages of written material  
12 or illustrations, is distributed in more than one state, and has an  
13 annual circulation of not less than 250,000 customers.

14 (c) A solicitation or attempted solicitation ~~which~~ *that* is made  
15 by telephone in response to inquiries generated by advertisements  
16 on behalf of the telephonic seller wherein it is represented or  
17 implied that the seller is offering to sell to the prospective purchaser  
18 any gold, silver, or other metals, including ~~coins~~, *coins*; diamonds,  
19 rubies, sapphires, or other ~~stones~~, *stones*; coal or other minerals,  
20 or any interest in oil, gas, or mineral fields, wells, or exploration  
21 sites, or any other investment opportunity of any type whatsoever.

22 (d) A solicitation or attempted solicitation ~~which~~ *that* is made  
23 by telephone in response to inquiries generated by advertisements  
24 on behalf of the telephonic seller wherein it is represented or  
25 implied that the seller is offering to make a loan or to arrange or  
26 assist in arranging a loan or modification of an existing loan, or  
27 to assist in providing information ~~which~~ *that* may lead to the  
28 obtaining of a loan or modification of an existing loan, unless no  
29 payment of any kind is made until the loan proceeds are disbursed  
30 to the borrower.

31 (e) For purposes of this article, “telephonic seller” or “seller”  
32 does not include any of the following:

33 (1) A person offering or selling a security qualified under  
34 Section 25110, 25120, or 25130 of the Corporations Code or  
35 exempt from qualification under Chapter 1 (commencing with  
36 Section 25100) of Part 2 of Division 1 of Title 4 of the  
37 Corporations Code. The fact that a notice claiming an exemption  
38 under the Corporate Securities Law of 1968 is filed with the  
39 Department of Corporations does not create an exemption under  
40 this paragraph.

1 (2) A person licensed pursuant to Part 1 (commencing with  
2 Section 10000) of Division 4, when the solicited transaction is  
3 governed by that law.

4 (3) A person licensed pursuant to Chapter 9 (commencing with  
5 Section 7000) of Division 3, when the solicited transaction is  
6 governed by that law.

7 (4) A person licensed or certificated pursuant to Part 2  
8 (commencing with Section 680) of Division 1 of the Insurance  
9 Code, including a person licensed pursuant to Chapter 5  
10 (commencing with Section 1621) thereof, when the solicited  
11 transaction is governed by that law.

12 (5) A person offering or selling a franchise registered pursuant  
13 to Section 31110 of the Corporations Code or exempt from  
14 registration under Chapter 1 (commencing with Section 31100)  
15 of Part 2 of Division 5 of Title 4 of the Corporations Code. The  
16 fact that a notice claiming an exemption under the Franchise  
17 Investment Law is filed with the Department of Corporations does  
18 not create an exemption under this paragraph.

19 (6) A person soliciting the sale of a seller assisted marketing  
20 plan, as defined in Title 2.7 (commencing with Section 1812.200)  
21 of Part 4 of Division 3 of the Civil Code, who has filed with the  
22 Attorney General the documents required by Section 1812.203 of  
23 the Civil Code.

24 (7) A person primarily soliciting the sale of a newspaper of  
25 general circulation, as defined in Article 1 (commencing with  
26 Section 6000) of Chapter 1 of Division 7 of Title 1 of the  
27 Government Code, a magazine, or membership in a book or record  
28 club whose program operates in conformity with the requirements  
29 of Section 1584.5 of the Civil Code.

30 (8) A person soliciting business from prospective purchasers  
31 who have previously purchased from the business enterprise for  
32 which the person is calling.

33 (9) A person soliciting without the intent to complete and who  
34 does not complete the sales presentation during the telephone  
35 solicitation but completes the sales presentation at a later  
36 face-to-face meeting between the solicitor and the prospective  
37 purchaser. However, if a seller, directly following a telephone  
38 solicitation, causes an individual whose primary purpose it is to  
39 go to the prospective purchaser to collect the payment or deliver  
40 any item purchased, this exemption does not apply.

1 (10) Any supervised financial institution or parent, subsidiary,  
2 or subsidiary of parent thereof. As used in this paragraph,  
3 “supervised financial institution” means any commercial bank,  
4 trust company, savings and loan association, credit union, industrial  
5 loan company, personal property broker, consumer finance lender,  
6 commercial finance lender, or insurer, provided that the institution  
7 is subject to supervision by an official or agency of this state or of  
8 the United States.

9 (11) A person soliciting the sale of a preneed funeral  
10 arrangement regulated by Article 9 (commencing with Section  
11 7735) of Chapter 12 of Division 3.

12 (12) A person licensed pursuant to Chapter 19 (commencing  
13 with Section 9600) of Division 3 when acting pursuant to that  
14 licensure.

15 (13) A person soliciting the sale of services provided by a cable  
16 television system licensed or franchised pursuant to Section 53066  
17 of the Government Code or any other authority.

18 (14) A person or an affiliate of a person whose business is  
19 regulated by the Public Utilities Commission.

20 (15) A person soliciting the sale of a commodity pursuant to  
21 Part 2 (commencing with Section 58601) of Division 21 of the  
22 Food and Agricultural Code, if the solicitation neither intends to,  
23 nor actually results in, a sale ~~which~~ that costs the purchaser in  
24 excess of one hundred dollars (\$100).

25 (16) An issuer or subsidiary of an issuer that has a security listed  
26 on a national securities exchange or designated as a national market  
27 system security on an interdealer quotation system by the National  
28 Association of Securities Dealers, Inc., if the exchange or  
29 interdealer quotation system has been certified by rule or order of  
30 the Commissioner of Corporations under subdivision (o) of Section  
31 25100 of the Corporations Code. A subsidiary of an issuer that  
32 qualifies for exemption under this paragraph is not itself exempt  
33 unless not less than 60 percent of the voting power of its shares is  
34 owned by the qualifying issuer or issuers.

35 (17) A person soliciting exclusively the sale of telephone  
36 answering services to be provided by that person or that person’s  
37 employer.

38 (18) A person soliciting a transaction regulated by the  
39 Commodity Futures Trading Commission if the person is registered  
40 or temporarily licensed for this activity with the Commodity

1 Futures Trading Commission under the Commodity Exchange Act  
2 (7 U.S.C. Sec. 1 et seq.), and the registration or license has not  
3 expired or been suspended or revoked.

4 (19) A person who sells coins or bullion at a price ~~which~~ *that*  
5 is not more than 25 percent more than the price at which the seller  
6 is concurrently buying the same coins or bullion, if: (A) the seller  
7 has had a retail location in California from which he or she has  
8 been selling coins or bullion to the public in person for at least  
9 three years; (B) the telephonic solicitations are not the person's  
10 primary business and sales made telephonically make up less than  
11 20 percent of the person's total retail sales; and (C) the person  
12 claiming an exemption pursuant to this subdivision complies with  
13 Section 17511.3, as applicable, and subdivision (p) of Section  
14 17511.4.

15 (20) A person licensed pursuant to Chapter 14 (commencing  
16 with Section 1800) of Division 1 of the Financial Code to receive  
17 money for transmittal to foreign countries if the license has not  
18 expired or been suspended or revoked.

19 (21) A person licensed as a residential mortgage lender or  
20 servicer pursuant to Division 20 (commencing with Section 50000)  
21 of the Financial Code, when acting under the authority of that  
22 license.

23 (22) A corporation that meets all of the following conditions:

24 (A) It has been exempt from taxation under Section 23701e of  
25 the Revenue and Taxation Code for a minimum of 10 years.

26 (B) It has maintained its principal purpose for a minimum of  
27 10 years.

28 (C) It has been incorporated in the state for a minimum of 25  
29 years.

30 (f) In any civil proceeding alleging a violation of this article,  
31 the burden of proving an exemption or an exception from a  
32 definition is upon the person claiming it, and in any criminal  
33 proceeding alleging a violation of this article, the burden of  
34 producing evidence to support a defense based upon an exemption  
35 or an exception from a definition is upon the person claiming it.

36 (g) Compliance with this article does not satisfy nor substitute  
37 for any requirements for license, registration, or regulation  
38 mandated by other laws.

39 *SEC. 2. Section 17511.4 of the Business and Professions Code*  
40 *is amended to read:*

1 17511.4. Each filing pursuant to Section 17511.3 shall contain  
2 the following information:

3 (a) The name or names of the seller, including the name under  
4 which the seller is doing or intends to do business, if different from  
5 the name of the seller, and the name of any parent or affiliated  
6 organization (1) that will engage in business transactions with  
7 purchasers relating to sales solicited by the seller or (2) that accepts  
8 responsibility for statements made by, or acts of, the seller relating  
9 to sales solicited by the seller.

10 (b) The seller’s business form and place of organization and, if  
11 the seller is a corporation, a copy of its articles of incorporation  
12 and bylaws and amendments thereto, or, if a partnership, a copy  
13 of the partnership agreement, or if operating under a fictitious  
14 business name, the location where the fictitious name has been  
15 registered. All the same information shall be included for any  
16 parent or affiliated organization disclosed pursuant to subdivision  
17 (a).

18 (c) The complete street address or addresses of all locations,  
19 designating the principal location from which the telephonic seller  
20 will be conducting business. If the principal business location of  
21 the seller is not in this state, then the seller shall also designate  
22 which of its locations within this state is its main location in the  
23 state.

24 (d) A listing of all telephone numbers to be used by the seller  
25 and the address where each telephone using each of these telephone  
26 numbers is located.

27 (e) The name of, and the office held by, the seller’s officers,  
28 directors, trustees, general and limited partners, sole proprietor,  
29 and owners, as the case may be, and the names of those persons  
30 who have management responsibilities in connection with the  
31 seller’s business activities.

32 (f) The complete address of the principal residence, the date of  
33 birth, and the driver’s license number and state of issuance of each  
34 of the persons whose names are disclosed pursuant to subdivision  
35 (e).

36 (g) The name and principal residence address of each person  
37 the telephonic seller leaves in charge at each location from which  
38 the seller does business in this state, as defined in subdivision (a)  
39 of Section 17511.3, and the business location ~~which~~ *that* each of  
40 these persons is or will be in charge of.



1 (h) A statement, meeting the requirements of this subdivision,  
2 as to both the seller, whether a corporation, partnership, firm,  
3 association, joint venture, or any other type of business entity (and  
4 whether identified pursuant to subdivision (e) or (g) or not), and  
5 as to any person identified pursuant to subdivision (e) or (g) who:  
6 (1) Has been convicted of a felony or misdemeanor involving  
7 an alleged violation of this article, or fraud, theft, embezzlement,  
8 fraudulent conversion, or misappropriation of property. For  
9 purposes of this paragraph, a plea of nolo contendere is a  
10 conviction.  
11 (2) Has had entered against him or her a final judgment or order  
12 in a civil or administrative action, including a stipulated judgment  
13 or order, if the complaint or petition in the civil or administrative  
14 action alleged acts constituting a violation of this article, fraud,  
15 theft, embezzlement, fraudulent conversion, or misappropriation  
16 of property, the use of untrue or misleading representations in an  
17 attempt to sell or dispose of real or personal property, or the use  
18 of unfair, unlawful, or deceptive business practices.  
19 (3) Is subject to any currently effective injunction or restrictive  
20 court order relating to business activity as the result of an action  
21 brought by a federal, state, or local public agency or unit thereof,  
22 including, but not limited to, an action affecting any vocational  
23 license.  
24 (4) Has at any time during the previous seven tax years been  
25 the subject of an order for relief in bankruptcy, been reorganized  
26 due to insolvency, or been a principal, director, officer, trustee,  
27 general or limited partner, or had management responsibilities of  
28 any other corporation, partnership, joint venture, or business entity,  
29 that has been the subject of an order for relief in bankruptcy during  
30 or within one year after the period that the person held that position.  
31 For purposes of paragraphs (1), (2), and (3), the statement  
32 required by this subdivision shall identify the seller or person, the  
33 court or administrative agency rendering the conviction, judgment,  
34 or order, the docket number of the matter, the date of the  
35 conviction, judgment, or order, and the name of the governmental  
36 agency, if any, that brought the action resulting in the conviction,  
37 judgment, or order. For purposes of paragraph (4), the statement  
38 required by this subdivision shall include the name and location  
39 of the seller or person that has been the subject of an order for  
40 relief in bankruptcy, or reorganized due to insolvency, and shall

1 include the date thereof, the court ~~which~~ *that* exercised jurisdiction,  
2 and the docket number of the matter.

3 (i) A list of the names, principal residence addresses, the date  
4 of birth, and the driver's license number and state of issuance  
5 thereof, of salespersons who solicit on behalf of the telephonic  
6 seller and the names the salespersons use while so soliciting. No  
7 salesperson shall use the same name as used by any other  
8 salesperson soliciting for the telephonic seller and no telephonic  
9 seller shall permit a salesperson to use the same name as used by  
10 any other salesperson soliciting for the telephonic seller.

11 (j) A description of the items the seller is offering for sale and  
12 a copy of all sales scripts the telephonic seller requires salespersons  
13 to use when soliciting prospective purchasers, or if no sales script  
14 is required to be used, a statement to that effect.

15 (k) A copy of all sales information and literature (including, but  
16 not limited to, scripts, outlines, instructions, and information  
17 regarding how to conduct telephonic sales, sample introductions,  
18 sample closings, product information, and contest or  
19 premium-award information) provided by the telephonic seller to  
20 salespersons or of which the seller informs salespersons, and a  
21 copy of all written materials the seller sends to any prospective or  
22 actual purchaser.

23 (l) If the telephonic seller represents or implies, or directs  
24 salespersons to represent or imply, to purchasers that the purchaser  
25 will receive certain specific items (including a certificate of any  
26 type ~~which~~ *that* the purchaser must redeem to obtain the item  
27 described in the certificate) or one or more items from among  
28 designated items, whether the items are denominated as gifts,  
29 premiums, bonuses, prizes, or otherwise, the filing shall include  
30 the following:

31 (1) A list of the items offered.

32 (2) The value or worth of each item described to prospective  
33 purchasers and the basis for the valuation.

34 (3) The price paid by the telephonic seller to its supplier for  
35 each of these items and the name, address, and telephone number  
36 of each item's supplier.

37 (4) If the purchaser is to receive fewer than all of the items  
38 described by the seller, the filing shall include the following:

39 (A) The manner in which the telephonic seller decides which  
40 item or items a particular prospective purchaser is to receive.

1 (B) The odds a single prospective purchaser has of receiving  
2 each described item.

3 (C) The name and address of each recipient who has, during  
4 the preceding 12 months (or if the seller has not been in business  
5 that long, during the period the telephonic seller has been in  
6 business) received the item having the greatest value and the item  
7 with the smallest odds of being received.

8 (5) All rules, regulations, terms, and conditions a prospective  
9 purchaser must meet in order to receive the item.

10 (m) If the telephonic seller is offering to sell any metal, stone,  
11 or mineral, the filing shall include the following:

12 (1) The name, address, and telephone number of each of the  
13 seller's suppliers and a description of each metal, stone, or mineral  
14 provided by the supplier.

15 (2) If possession of any metal, stone, or mineral is to be retained  
16 by the seller or will not be transferred to the purchaser until the  
17 purchaser has paid in full, the filing shall include the following:

18 (A) The address of each location where the metal, stone, or  
19 mineral will be kept.

20 (B) If not kept on premises owned by the seller or at an address  
21 or addresses set forth in compliance with subdivision (c), the name  
22 of the owner of the business at which the metal, stone, or mineral  
23 will be kept.

24 (C) A copy of any contract or other document ~~which~~ *that*  
25 evidences the seller's right to store the metal, stone, or mineral at  
26 the address or addresses designated pursuant to subparagraph (A).

27 (3) If the seller is not selling the metal, stone, or mineral from  
28 its own inventory, but instead purchases the metal, stone, or mineral  
29 to fill orders taken from purchasers, the filing shall include copies  
30 of all contracts or other documents evidencing the seller's ability  
31 to call upon suppliers to fill the seller's orders.

32 (4) If the seller represents to purchasers that the seller has  
33 insurance or a surety bond of any type relating to a purchaser's  
34 purchase of any metal, stone, or mineral from the seller, the filing  
35 shall include a complete copy of all these insurance policies and  
36 bonds.

37 (5) If the seller makes any representation as to the earning or  
38 profit potential of purchases of any metal, stone, or mineral, the  
39 filing shall include data to substantiate the claims made. If the  
40 representation relates to previous sales made by the seller or a

1 related entity, substantiating data shall be based on the experiences  
 2 of at least 50 percent of the persons who have purchased the  
 3 particular metal, stone, or mineral from the seller or related entity  
 4 during the preceding six months (or if the seller or related entity  
 5 has not been in business that long, during the period the seller or  
 6 related entity has been in business) and shall include the raw data  
 7 upon which the representation is based, including, but not limited  
 8 to, all of the following:

9 (A) The length of time the seller or related entity has been selling  
 10 the particular metal, stone, or mineral being offered.

11 (B) The number of purchasers thereof from the seller or related  
 12 entity known to the seller or related entity to have made at least  
 13 the same earnings or profit as those represented.

14 (C) The percentage that the number disclosed pursuant to  
 15 subparagraph (B) represents of the total number of purchasers from  
 16 the seller or related entity of the particular metal, stone, or mineral.

17 (n) If the telephonic seller is offering to sell an interest in oil,  
 18 gas, or mineral fields, wells, or exploration sites, the filing shall  
 19 include disclosure of the following:

20 (1) The seller’s ownership interest, if any, in each field, well,  
 21 or site being offered for sale.

22 (2) The total number of interests to be sold in each field, well,  
 23 or site being offered for sale.

24 (3) If, in selling an interest in any particular field, well, or site,  
 25 reference is made to an investigation of these fields, wells, or sites  
 26 by the seller or anyone else, the filing shall include the following:

27 (A) The name, business address, telephone number, and  
 28 professional credentials of the person or persons who made the  
 29 investigation.

30 (B) A copy of the report and other documents relating to the  
 31 investigation prepared by the person or persons.

32 (4) If the seller makes any representation as to the earning or  
 33 profit potential of purchases of any interest in these fields, wells,  
 34 or sites, the filing shall include data to substantiate the claims  
 35 made. If the representation relates to previous sales made by the  
 36 seller or a related entity, the substantiating data shall be based on  
 37 the experiences of at least 50 percent of the purchasers of the  
 38 particular interests from the seller or the related entity during the  
 39 preceding six months (or if the seller has not been in business that  
 40 long, during the period the seller or related entity has been in

1 business) and shall include the raw data upon which the  
2 representation is based, including, but not limited to, all of the  
3 following:

4 (A) The length of time the seller or related entity has been selling  
5 the particular interests in the fields, wells, or sites being offered.

6 (B) The number of purchasers of the particular interests from  
7 the seller or related entity known to the seller to have made, at  
8 least the same earnings as those represented.

9 (C) The percentage the number disclosed pursuant to  
10 subparagraph (B) represents of the total number of purchasers of  
11 the particular interests from the seller or related entity.

12 (o) The name and address of the telephonic seller's agent in this  
13 state, other than the Attorney General, authorized to receive service  
14 of process in this state.

15 (p) If a person, based on paragraph (19) of subdivision (c) of  
16 Section 17511.1, claims an exemption from having to file the  
17 information required by subdivisions (a) to (o), inclusive, the  
18 person shall file, on a form provided by the Attorney General, the  
19 following information:

20 (1) The name or names of the person claiming the exemption,  
21 including the name under which the person is doing or intends to  
22 do business.

23 (2) The person's business form, and place of organization,  
24 whether corporate or otherwise; or, if operating under a fictitious  
25 business name, the location where the fictitious name has been  
26 registered.

27 (3) The complete street address of the person's retail locations,  
28 and telephone numbers located therein and a statement as to how  
29 long the person has been selling at retail from each location.

30 (4) A copy of the person's currently valid business license.

31 (5) A statement reflecting the dollar amount of the person's  
32 total retail sales during the 12 months preceding the filing.

33 (6) A statement reflecting the dollar amount of the person's  
34 sales made telephonically during the 12 months preceding the  
35 filing.

36 The filing shall be verified by a declaration signed under penalty  
37 of perjury by each principal of the person claiming the exemption.  
38 The declaration shall specify the date and location of signing.

39 If a person filing pursuant to subdivision (p) makes any  
40 representation to a prospective purchaser as to the historical

1 movements or changes in the price or value of any coin or bullion,  
2 the person shall maintain in its records sufficient data to  
3 substantiate each representation. This data shall be retained in the  
4 person's records for a period of at least three years after the last  
5 date on which a representation is made and shall be made available  
6 for inspection upon request by any governmental agency at each  
7 of its business locations.

8 (q) If the telephonic seller represents or implies, or directs  
9 salespersons to represent or imply, that the telephonic seller can,  
10 or may be able to, make a loan or arrange or assist in arranging a  
11 loan or to assist in providing information ~~which~~ *that* may lead to  
12 the obtaining of a loan, the filing shall include the following:

13 (1) The names and addresses of all persons who, in the previous  
14 24 months, lent money to those who responded to the seller's  
15 solicitations or lent money to the telephonic seller for the seller to  
16 lend to those who responded to the seller's representations that it  
17 could make a loan or arrange or assist in arranging a loan or could  
18 assist in providing information ~~which~~ *that* could lead to the  
19 obtaining of a loan.

20 (2) The names and addresses of all persons who, in the previous  
21 24 months, lent money to those who responded to the solicitations  
22 of the seller's predecessor or the seller's officers, owners, or those  
23 persons having present management responsibilities or to  
24 companies with which they were associated, that they could make  
25 a loan or arrange or assist in arranging a loan or could assist in  
26 providing information ~~which~~ *that* could lead to the obtaining of a  
27 loan or lent money to the seller's predecessor or the seller's  
28 officers, owners, or those persons having present management  
29 responsibilities or to companies with which they were associated  
30 for them to lend to those who responded to these representations.

31 (3) The names and addresses of all persons who have informed  
32 the telephonic seller that they may be able to lend money, within  
33 the next 12 months from the date of this registration, to persons  
34 solicited by the seller or to the telephonic seller for the seller to  
35 lend to those who respond to the seller's representations that it can  
36 make a loan or arrange or assist in arranging a loan or can assist  
37 in providing information ~~which~~ *that* can lead to the obtaining of  
38 a loan.

39 (4) Copies of all contracts between the seller and lenders or  
40 prospective lenders who may lend money: (A) to the seller to lend

1 to individuals who, in connection with the seller's business  
2 activities, respond to the seller's representations that it can make  
3 a loan or arrange or assist in arranging a loan or can assist in  
4 providing information ~~which~~ *that* can lead to the obtaining of a  
5 loan; or (B) directly to persons to whom the seller may represent  
6 that it can arrange or assist in providing information ~~which~~ *that*  
7 can lead to the obtaining of a loan.

8 *(r) If the telephonic seller represents or implies, or directs*  
9 *salespersons to represent or imply, that the telephonic seller can,*  
10 *or may be able to, modify an existing loan or arrange or assist in*  
11 *arranging a loan modification or to assist in providing information*  
12 *that may lead to the obtaining of a loan modification, the filing*  
13 *shall include the following:*

14 *(1) The names and addresses of all persons who, in the previous*  
15 *24 months, obtained loan modifications for those who responded*  
16 *to the seller's solicitations or representations that it could modify*  
17 *an existing loan or arrange for or assist in arranging for a loan*  
18 *modification or could assist in providing information that could*  
19 *lead to the modification of an existing loan.*

20 *(2) The names and addresses of all persons who, in the previous*  
21 *24 months, obtained loan modifications for those who responded*  
22 *to the solicitations or representations of the seller's predecessor*  
23 *that it could modify an existing loan or arrange for or assist in*  
24 *arranging for a loan modification or could assist in providing*  
25 *information that could lead to the modification of an existing loan.*

26 ~~SEC. 2.~~

27 *SEC. 3.* No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.

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