

**ASSEMBLY BILL**

**No. 1396**

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**Introduced by Committee on Banking and Finance (Dickinson (Chair), Morrell (Vice Chair), Achadjian, Blumenfield, Bonta, Chau, Gatto, Harkey, Linder, Perea, Torres, and Weber)**

March 6, 2013

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An act to amend Sections 25005, 29503, and 31004 of the Corporations Code, to amend Sections 125, 300, 320, 4805.055, 5104, 5106, 12003, 14003, 14200.1, 14200.2, 17002, 18002, 18002.5, 22005, 30002, 31055, and 50003 of, to repeal and add Sections 321, 351, and 371 of, and to amend the headings of Chapter 3 (commencing with Section 300) of, and Article 2 (commencing with Section 320) of Chapter 3 of Division 1 of, the Financial Code, and to amend Sections 11552, 13978.6, and 13984 of, and to add Section 12804 to, the Government Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1396, as introduced, Committee on Banking and Finance. Department of Financial Services.

Existing law, until July 1, 2013, creates the Department of Corporations and the Department of Financial Institutions within the Business, Transportation and Housing Agency. The Department of Corporations provides for the licensure and regulation of businesses engaged in financial transactions, including securities brokers and dealers, investment advisors, financial planners, and certain fiduciaries and lenders, as specified. The Department of Financial Institutions oversees the operation of state-chartered financial institutions, including banks, credit unions, and various entities providing financial services. The Commissioner of Corporations and the Commissioner of Financial

Institutions are responsible for overseeing and carrying out the duties and responsibilities of their respective departments.

The Governor’s Reorganization Plan No. 2 of 2012 (GRP 2), effective July 1, 2013, abolishes the Department of Corporations and the Department of Financial Institutions and transfer their responsibilities to the Department of Business Oversight, which would be established within the Business and Consumer Services Agency. The executive officer of the new Department of Business Oversight would be the Commissioner of Business Oversight. The department is organized to include a Division of Corporations and a Division of Financial Institutions, each of which would be overseen by a deputy commissioner of the department.

This bill would delete references to the Department of Business Oversight, as provided for in the GRP 2, and would instead transfer the duties of the Department of Corporations and the Department of Financial Institutions to the Department of Financial Services, as specified. The bill also would make various technical changes provided for in the GRP 2.

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

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

- 1 SECTION 1. Section 25005 of the Corporations Code is
- 2 amended to read:
- 3 25005. “Commissioner” means the *Deputy* Commissioner of
- 4 *Financial Services for the Division of Corporations*.
- 5 SEC. 2. Section 29503 of the Corporations Code is amended
- 6 to read:
- 7 29503. “Commissioner” means the *Deputy* Commissioner of
- 8 ~~Corporations~~ *Financial Services for the Division of Corporations*.
- 9 SEC. 3. Section 31004 of the Corporations Code is amended
- 10 to read:
- 11 31004. “Commissioner” means the *Deputy* Commissioner of
- 12 ~~Corporations~~ *Financial Services for the Division of Financial*
- 13 *Institutions*.
- 14 SEC. 4. Section 125 of the Financial Code is amended to read:
- 15 125. “Commissioner” means the Commissioner of Financial
- 16 ~~Institutions~~ *Services* and “department” means the Department of
- 17 ~~Financial-Institutions~~ *Services*.

1 SEC. 5. The heading of Chapter 3 (commencing with Section  
2 300) of Division 1 of the Financial Code is amended to read:

3  
4 CHAPTER 3. DEPARTMENT OF FINANCIAL ~~INSTITUTIONS~~  
5 SERVICES  
6

7 SEC. 6. Section 300 of the Financial Code, as amended by  
8 Section 5 of Chapter 147 of the Statutes of 2012, is amended to  
9 read:

10 300. (a) In this section:

11 (1) “Business and industrial development corporation” means  
12 a corporation licensed under Division 15 (commencing with  
13 Section 31000).

14 (2) “Payment instrument” has the same meaning as set forth in  
15 Section 33059.

16 (3) “Traveler’s check” has the same meaning as set forth in  
17 Section 1803.

18 (b) There is in the state government, in the Business, Consumer  
19 Services, and Housing Agency, a Department of ~~Business~~  
20 ~~Oversight~~ *Financial Services*, which has charge of the execution  
21 of, among other laws, the laws of this state relating to any of the  
22 following: (1) banks or trust companies or the banking or trust  
23 business; (2) savings associations or the savings association  
24 business; (3) credit unions or the credit union business; (4) persons  
25 who engage in the business of receiving money for transmission  
26 to foreign nations or such business; (5) issuers of traveler’s checks  
27 or the traveler’s check business; (6) issuers of payment instruments  
28 or the payment instrument business; (7) business and industrial  
29 development corporations or the business and industrial  
30 development corporation business, or (8) insurance premium  
31 finance agencies or the insurance premium finance business.

32 SEC. 7. The heading of Article 2 (commencing with Section  
33 320) of Chapter 3 of Division 1 of the Financial Code is amended  
34 to read:

35  
36 Article 2. Commissioner of Financial ~~Institutions~~ *Services*  
37

38 SEC. 8. Section 320 of the Financial Code is amended to read:

39 320. The chief officer of the Department of Financial  
40 ~~Institutions~~ *Services* is the Commissioner of Financial ~~Institutions~~

1 *Services*. The Commissioner of Financial ~~Institutions~~ *Services* is  
2 the head of the department, *with the authority and responsibility*  
3 *over all officers, employees, and activities in the department*, and,  
4 except as otherwise provided in this code, is subject to the  
5 provisions of the Government Code relating to department heads,  
6 but need not reside in Sacramento.

7 SEC. 9. Section 321 of the Financial Code is repealed.

8 ~~321. As of the operative date of this section:~~

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

12 ~~(b) The office of the Superintendent of Banks and the State~~  
13 ~~Banking Department are abolished. All powers, duties,~~  
14 ~~responsibilities, and functions of the Superintendent of Banks and~~  
15 ~~the State Banking Department are transferred to the Commissioner~~  
16 ~~of Financial Institutions and the Department of Financial~~  
17 ~~Institutions, respectively. The Commissioner of Financial~~  
18 ~~Institutions and the Department of Financial Institutions succeed~~  
19 ~~to all the rights and property of the Superintendent of Banks and~~  
20 ~~the State Banking Department, respectively; the Commissioner of~~  
21 ~~Financial Institutions and the Department of Financial Institutions~~  
22 ~~are subject to all the debts and liabilities of the Superintendent of~~  
23 ~~Banks and the State Banking Department, respectively, as if the~~  
24 ~~Commissioner of Financial Institutions and the Department of~~  
25 ~~Financial Institutions had incurred them. Any action or proceeding~~  
26 ~~by or against the Superintendent of Banks or the State Banking~~  
27 ~~Department may be prosecuted to judgment, which shall bind the~~  
28 ~~Commissioner of Financial Institutions or the Department of~~  
29 ~~Financial Institutions, respectively, or the Commissioner of~~  
30 ~~Financial Institutions or the Department of Financial Institutions~~  
31 ~~may be proceeded against or substituted in place of the~~  
32 ~~Superintendent of Banks or the State Banking Department,~~  
33 ~~respectively. References in the Constitution of the State of~~  
34 ~~California or in any statute or regulation to the Superintendent of~~  
35 ~~Banks or to the State Banking Department mean the Commissioner~~  
36 ~~of Financial Institutions or the Department of Financial Institutions,~~  
37 ~~respectively. All agreements entered into with, and orders and~~  
38 ~~regulations issued by, the Superintendent of Banks or the State~~  
39 ~~Banking Department shall continue in effect as if the agreements~~  
40 ~~were entered into with, and the orders and regulations were issued~~

1 by, the Commissioner of Financial Institutions or the Department  
2 of Financial Institutions, respectively.

3 (e) ~~The office of the Savings and Loan Commissioner and the~~  
4 ~~Department of Savings and Loan are abolished. All powers, duties,~~  
5 ~~responsibilities, and functions of the Savings and Loan~~  
6 ~~Commissioner and the Department of Savings and Loan are~~  
7 ~~transferred to the Commissioner of Financial Institutions and the~~  
8 ~~Department of Financial Institutions, respectively. The~~  
9 ~~Commissioner of Financial Institutions and the Department of~~  
10 ~~Financial Institutions succeed to all the rights and property of the~~  
11 ~~Savings and Loan Commissioner and the Department of Savings~~  
12 ~~and Loan, respectively; the Commissioner of Financial Institutions~~  
13 ~~and the Department of Financial Institutions are subject to all the~~  
14 ~~debts and liabilities of the Savings and Loan Commissioner and~~  
15 ~~the Department of Savings and Loan, respectively, as if the~~  
16 ~~Commissioner of Financial Institutions and the Department of~~  
17 ~~Financial Institutions had incurred them. Any action or proceeding~~  
18 ~~by or against the Savings and Loan Commissioner or the~~  
19 ~~Department of Savings and Loan may be prosecuted to judgment,~~  
20 ~~which shall bind the Commissioner of Financial Institutions or the~~  
21 ~~Department of Financial Institutions, respectively, or the~~  
22 ~~Commissioner of Financial Institutions or the Department of~~  
23 ~~Financial Institutions may be proceeded against or substituted in~~  
24 ~~place of the Savings and Loan Commissioner or the Department~~  
25 ~~of Savings and Loan, respectively. References in the Constitution~~  
26 ~~of the State of California or in any statute or regulation to the~~  
27 ~~Savings and Loan Commissioner or to the Department of Savings~~  
28 ~~and Loan mean the Commissioner of Financial Institutions or the~~  
29 ~~Department of Financial Institutions, respectively. All agreements~~  
30 ~~entered into with, and orders and regulations issued by, the Savings~~  
31 ~~and Loan Commissioner or the Department of Savings and Loan~~  
32 ~~shall continue in effect as if the agreements were entered into with,~~  
33 ~~and the orders and regulations were issued by, the Commissioner~~  
34 ~~of Financial Institutions or the Department of Financial Institutions.~~

35 (d) ~~All powers, duties, responsibilities, and functions of the~~  
36 ~~Commissioner of Corporations and the Department of Corporations~~  
37 ~~with respect to credit unions, the credit union business, industrial~~  
38 ~~loan companies, or the industrial loan business are transferred to~~  
39 ~~the Commissioner of Financial Institutions and the Department of~~  
40 ~~Financial Institutions, respectively. The Commissioner of Financial~~

1 ~~Institutions and the Department of Financial Institutions succeed~~  
2 ~~to all the rights and property of the Commissioner of Corporations~~  
3 ~~and the Department of Corporations, respectively, with respect to~~  
4 ~~credit unions, the credit union business, industrial loan companies,~~  
5 ~~or the industrial loan business; the Commissioner of Financial~~  
6 ~~Institutions and the Department of Financial Institutions are subject~~  
7 ~~to all the debts and liabilities of the Commissioner of Corporations~~  
8 ~~and the Department of Corporations, respectively, with respect to~~  
9 ~~credit unions, the credit union business, industrial loan companies,~~  
10 ~~or the industrial loan business, as if the Commissioner of Financial~~  
11 ~~Institutions and the Department of Financial Institutions had~~  
12 ~~incurred them. Any action or proceeding by or against the~~  
13 ~~Commissioner of Corporations or the Department of Corporations~~  
14 ~~with respect to credit unions, the credit union business, industrial~~  
15 ~~loan companies, or the industrial loan business may be prosecuted~~  
16 ~~to judgment, which shall bind the Commissioner of Financial~~  
17 ~~Institutions or the Department of Financial Institutions,~~  
18 ~~respectively, or the Commissioner of Financial Institutions or the~~  
19 ~~Department of Financial Institutions may be proceeded against or~~  
20 ~~substituted in place of the Commissioner of Corporations or the~~  
21 ~~Department of Corporations, respectively. References in the~~  
22 ~~Constitution of the State of California or any statute or regulation~~  
23 ~~to the Commissioner of Corporations or to the Department of~~  
24 ~~Corporations with respect to credit unions, the credit union~~  
25 ~~business, industrial loan companies, or the industrial loan business~~  
26 ~~mean the Commissioner of Financial Institutions or the Department~~  
27 ~~of Financial Institutions, respectively. All agreements entered into~~  
28 ~~with, and orders and regulations issued by, the Commissioner of~~  
29 ~~Corporations or the Department of Corporations in the exercise of~~  
30 ~~authority under any law relating to credit unions, the credit union~~  
31 ~~business, industrial loan companies, or the industrial loan business,~~  
32 ~~shall continue in effect as if the agreements were entered into with,~~  
33 ~~and the orders and regulations were issued by, the Commissioner~~  
34 ~~of Financial Institutions or the Department of Financial Institutions.~~

35 SEC. 10. Section 321 is added to the Financial Code, to read:

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

39 (b) The office of the Commissioner of Financial Institutions  
40 and the Department of Financial Institutions are abolished. All

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

34 (c) The office of the Commissioner of Corporations and the  
35 Department of Corporations are abolished. All powers, duties,  
36 responsibilities, and functions of the Commissioner of Corporations  
37 and the Department of Corporations are transferred to the  
38 Commissioner of Financial Services and the Department of  
39 Financial Services, respectively. The Commissioner of Financial  
40 Services and the Department of Financial Services succeed to all

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

25 SEC. 11. Section 351 of the Financial Code is repealed.

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

37 SEC. 12. Section 351 is added to the Financial Code, to read:

38 351. (a) The chief officer of the Division of Corporations is  
 39 the Deputy Commissioner of Financial Services for the Division  
 40 of Corporations. The Deputy Commissioner of Financial Services

1 for the Division of Corporations shall, under the direction of the  
2 commissioner, administer the laws of this state that were, prior to  
3 July 1, 2013, under the charge of the Department of Corporations.  
4 The Deputy Commissioner of Financial Services for the Division  
5 of Corporations shall be appointed by the Governor and shall hold  
6 office at the pleasure of the Governor. The Deputy Commissioner  
7 of Financial Services for the Division of Corporations shall receive  
8 an annual salary as fixed by the Governor.

9 (b) The chief officer of the Division of Financial Institutions is  
10 the Deputy Commissioner of Financial Services for the Division  
11 of Financial Institutions. The Deputy Commissioner of Financial  
12 Services for the Division of Financial Institutions shall, under the  
13 direction of the commissioner, administer the laws of this state  
14 that were, prior to July 1, 2013, under the charge of the Department  
15 of Financial Institutions. The Deputy Commissioner of Financial  
16 Services for the Division of Financial Institutions shall be  
17 appointed by the Governor and shall hold office at the pleasure of  
18 the Governor. The Deputy Commissioner of Financial Services  
19 for the Division of Financial Institutions shall receive an annual  
20 salary as fixed by the Governor.

21 SEC. 13. Section 371 of the Financial Code is repealed.

22 ~~371. There is in the Department of Financial Institutions, the~~  
23 ~~Division of Credit Unions. The Division of Credit Unions has~~  
24 ~~charge of the execution of the laws of this state relating to credit~~  
25 ~~unions and to the credit union business.~~

26 SEC. 14. Section 371 is added to the Financial Code, to read:

27 371. (a) There is in the Department of Financial Services, the  
28 Division of Corporations. The Division of Corporations has charge  
29 of the execution of the laws of the state that were, prior to July 1,  
30 2013, under the charge of the Department of Corporations.

31 (b) There is in the Department of Financial Services, the  
32 Division of Financial Institutions. The Division of Financial  
33 Institutions has charge of the execution of the laws of the state that  
34 were, prior to July 1, 2013, under the charge of the Department of  
35 Financial Institutions.

36 SEC. 15. Section 4805.055 of the Financial Code is amended  
37 to read:

38 4805.055. "Commissioner" means the *Deputy Commissioner*  
39 ~~of Financial Institutions~~ *Services for the Division of Financial*  
40 *Institutions*.

1 SEC. 16. Section 5104 of the Financial Code is amended to  
2 read:

3 5104. “Commissioner” means *Deputy* the Commissioner of  
4 Financial ~~Institutions~~ *Services for the Division of Financial*  
5 *Institutions*.

6 SEC. 17. Section 5106 of the Financial Code is amended to  
7 read:

8 5106. “Department” means the *Division of Financial*  
9 *Institutions in the Department of Financial* ~~Institutions~~ *Services*.

10 SEC. 18. Section 12003 of the Financial Code is amended to  
11 read:

12 12003. “Commissioner” means the *Deputy* Commissioner of  
13 ~~Corporations of the State of California~~ *Financial Services for the*  
14 *Division of Corporations*, or any deputy, investigator, auditor, or  
15 any other person employed by him *or her*.

16 SEC. 19. Section 14003 of the Financial Code is amended to  
17 read:

18 14003. “Commissioner” means the *Deputy* Commissioner of  
19 ~~Financial Institutions of the State of California~~ *Services for the*  
20 *Division of Financial Institutions*.

21 SEC. 20. Section 14200.1 of the Financial Code is amended  
22 to read:

23 14200.1. There is in the Department of Financial ~~Institutions~~  
24 *Services*, the ~~Division~~ *Office* of Credit Unions. The ~~Division~~ *Office*  
25 of Credit Unions has charge of the execution of the laws of this  
26 state relating to credit unions or to the credit union business.

27 SEC. 21. Section 14200.2 of the Financial Code is amended  
28 to read:

29 14200.2. The Chief Officer of the ~~Division~~ *Office* of Credit  
30 Unions is the Deputy Commissioner of Financial ~~Institutions~~  
31 *Services for the* ~~Division~~ *Office* of Credit Unions. The ~~Deputy~~  
32 ~~Commissioner of Financial Institutions for the Division~~ *Chief of*  
33 *the Office* of Credit Unions shall administer the laws of this state  
34 relating to credit unions or the credit union business under the  
35 direction of and on behalf of the commissioner. The ~~Deputy~~  
36 ~~Commissioner of Financial Institutions for the Division~~ *Chief of*  
37 *the Office* of Credit Unions shall be appointed by the Governor  
38 and shall hold office at the pleasure of the Governor. The ~~Deputy~~  
39 ~~Commissioner of Financial Institutions~~ *Chief of the Office of Credit*  
40 *Unions* shall receive an annual salary as fixed by the Governor.

1 SEC. 22. Section 17002 of the Financial Code is amended to  
2 read:

3 17002. “Commissioner” means the *Deputy* Commissioner of  
4 ~~Corporations~~ *Financial Services for the Division of Corporations.*

5 SEC. 23. Section 18002 of the Financial Code is amended to  
6 read:

7 18002. “Commissioner” means the *Deputy* Commissioner of  
8 ~~Financial Institutions of the State of California~~ *Services for the*  
9 *Division of Financial Institutions.*

10 SEC. 24. Section 18002.5 of the Financial Code is amended  
11 to read:

12 18002.5. “Department” means the *Division of Financial*  
13 *Institutions in the Department of Financial ~~Institutions~~ *Services.**

14 SEC. 25. Section 22005 of the Financial Code is amended to  
15 read:

16 22005. “Commissioner” means the *Deputy* Commissioner of  
17 ~~Corporations~~ *Financial Services for the Division of Corporations.*

18 SEC. 26. Section 30002 of the Financial Code is amended to  
19 read:

20 30002. “Commissioner” means the *Deputy* Commissioner of  
21 ~~Corporations~~ *Financial Services for the Division of Corporations.*

22 SEC. 27. Section 31055 of the Financial Code is amended to  
23 read:

24 31055. “Commissioner” means the *Deputy* Commissioner of  
25 ~~Financial Institutions~~ *Services for the Division of Financial*  
26 *Institutions* or any person to whom the ~~Commissioner of Financial~~  
27 ~~Institutions~~ *deputy commissioner* delegates the authority to act for  
28 him or her in the particular matter.

29 SEC. 28. Section 50003 of the Financial Code is amended to  
30 read:

31 50003. (a) “Annual audit” means a certified audit of the  
32 licensee’s books, records, and systems of internal control performed  
33 by an independent certified public accountant in accordance with  
34 generally accepted accounting principles and generally accepted  
35 auditing standards.

36 (b) “Borrower” means the loan applicant.

37 (c) “Buy” includes exchange, offer to buy, or solicitation to  
38 buy.

39 (d) “Commissioner” means the *Deputy* Commissioner of  
40 ~~Corporations~~ *Financial Services for the Division of Corporations.*

1 (e) “Control” means the possession, directly or indirectly, of  
 2 the power to direct, or cause the direction of, the management and  
 3 policies of a licensee under this division, whether through voting  
 4 or through the ownership of voting power of an entity that  
 5 possesses voting power of the licensee, or otherwise. Control is  
 6 presumed to exist if a person, directly or indirectly, owns, controls,  
 7 or holds 10 percent or more of the voting power of a licensee or  
 8 of an entity that owns, controls, or holds, with power to vote, 10  
 9 percent or more of the voting power of a licensee. No person shall  
 10 be deemed to control a licensee solely by reason of his or her status  
 11 as an officer or director of the licensee.

12 (f) “Depository institution” has the same meaning as in Section  
 13 3 of the Federal Deposit Insurance Act, and includes any credit  
 14 union.

15 (g) “Engage in the business” means the dissemination to the  
 16 public, or any part of the public, by means of written, printed, or  
 17 electronic communication or any communication by means of  
 18 recorded telephone messages or spoken on radio, television, or  
 19 similar communications media, of any information relating to the  
 20 making of residential mortgage loans, the servicing of residential  
 21 mortgage loans, or both. “Engage in the business” also means,  
 22 without limitation, making residential mortgage loans or servicing  
 23 residential mortgage loans, or both.

24 (h) “Federal banking agencies” means the Board of Governors  
 25 of the Federal Reserve System, the Comptroller of the Currency,  
 26 the Director of the Office of Thrift Supervision, the National Credit  
 27 Union Administration, and the Federal Deposit Insurance  
 28 Corporation.

29 (i) “In this state” includes any activity of a person relating to  
 30 making or servicing a residential mortgage loan that originates  
 31 from this state and is directed to persons outside this state, or that  
 32 originates from outside this state and is directed to persons inside  
 33 this state, or that originates inside this state and is directed to  
 34 persons inside this state, or that leads to the formation of a contract  
 35 and the offer or acceptance thereof is directed to a person in this  
 36 state (whether from inside or outside this state and whether the  
 37 offer was made inside or outside the state).

38 (j) “Institutional investor” means the following:

39 (1) The United States or any state, district, territory, or  
 40 commonwealth thereof, or any city, county, city and county, public

1 district, public authority, public corporation, public entity, or  
2 political subdivision of a state, district, territory, or commonwealth  
3 of the United States, or any agency or other instrumentality of any  
4 one or more of the foregoing, including, by way of example, the  
5 Federal National Mortgage Association and the Federal Home  
6 Loan Mortgage Corporation.

7 (2) Any bank, trust company, savings bank or savings and loan  
8 association, credit union, industrial bank or industrial loan  
9 company, personal property broker, consumer finance lender,  
10 commercial finance lender, or insurance company, or subsidiary  
11 or affiliate of one of the preceding entities, doing business under  
12 the authority of or in accordance with a license, certificate, or  
13 charter issued by the United States or any state, district, territory,  
14 or commonwealth of the United States.

15 (3) Trustees of pension, profit-sharing, or welfare funds, if the  
16 pension, profit-sharing, or welfare fund has a net worth of not less  
17 than fifteen million dollars (\$15,000,000), except pension,  
18 profit-sharing, or welfare funds of a licensee or its affiliate,  
19 self-employed individual retirement plans, or individual retirement  
20 accounts.

21 (4) A corporation or other entity with outstanding securities  
22 registered under Section 12 of the federal Securities Exchange Act  
23 of 1934 or a wholly owned subsidiary of that corporation or entity,  
24 provided that the purchaser represents either of the following:

25 (A) That it is purchasing for its own account for investment and  
26 not with a view to, or for sale in connection with, any distribution  
27 of a promissory note.

28 (B) That it is purchasing for resale pursuant to an exemption  
29 under Rule 144A (17 C.F.R. 230.144A) of the Securities and  
30 Exchange Commission.

31 (5) An investment company registered under the Investment  
32 Company Act of 1940; or a wholly owned and controlled subsidiary  
33 of that company, provided that the purchaser makes either of the  
34 representations provided in paragraph (4).

35 (6) A residential mortgage lender or servicer licensed to make  
36 residential mortgage loans under this law or an affiliate or  
37 subsidiary of that person.

38 (7) Any person who is licensed as a securities broker or  
39 securities dealer under any law of this state, or of the United States,  
40 or any employee, officer, or agent of that person, if that person is

1 acting within the scope of authority granted by that license or an  
2 affiliate or subsidiary controlled by that broker or dealer, in  
3 connection with a transaction involving the offer, sale, purchase,  
4 or exchange of one or more promissory notes secured directly or  
5 indirectly by liens on real property or a security representing an  
6 ownership interest in a pool of promissory notes secured directly  
7 or indirectly by liens on real property, and the offer and sale of  
8 those securities is qualified under the California Corporate  
9 Securities Law of 1968 or registered under federal securities laws,  
10 or exempt from qualification or registration.

11 (8) A licensed real estate broker selling the loan to an  
12 institutional investor specified in paragraphs (1) to (7), inclusive,  
13 or paragraph (9) or (10).

14 (9) A business development company as defined in Section  
15 2(a)(48) of the Investment Company Act of 1940 or a Small  
16 Business Investment Company licensed by the United States Small  
17 Business Administration under Section 301(c) or (d) of the Small  
18 Business Investment Act of 1958.

19 (10) A syndication or other combination of any of the foregoing  
20 entities that is organized to purchase a promissory note.

21 (11) A trust or other business entity established by an  
22 institutional investor for the purpose of issuing or facilitating the  
23 issuance of securities representing undivided interests in, or rights  
24 to receive payments from or to receive payments primarily from,  
25 a pool of financial assets held by the trust or business entity,  
26 provided that all of the following apply:

27 (A) The business entity is not a sole proprietorship.

28 (B) The pool of assets consists of one or more of the following:

29 (i) Interest-bearing obligations.

30 (ii) Other contractual obligations representing the right to receive  
31 payments from the assets.

32 (iii) Surety bonds, insurance policies, letters of credit, or other  
33 instruments providing credit enhancement for the assets.

34 (C) The securities will be either one of the following:

35 (i) Rated as “investment grade” by Standard and Poor’s  
36 Corporation or Moody’s Investors Service, Inc. “Investment grade”  
37 means that the securities will be rated by Standard and Poor’s  
38 Corporation as AAA, AA, A, or BBB or by Moody’s Investors  
39 Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings

1 with “+” or “—” designation or other variations that occur within  
2 those ratings.

3 (ii) Sold to an institutional investor.

4 (D) The offer and sale of the securities is qualified under the  
5 California Corporate Securities Law of 1968 or registered under  
6 federal securities laws, or exempt from qualification or registration.

7 (k) “Institutional lender” means the following:

8 (1) The United States or any state, district, territory, or  
9 commonwealth thereof, or any city, county, city and county, public  
10 district, public authority, public corporation, public entity, or  
11 political subdivision of a state, district, territory, or commonwealth  
12 of the United States, or any agency or other instrumentality of any  
13 one or more of the foregoing, including, by way of example, the  
14 Federal National Mortgage Association and the Federal Home  
15 Loan Mortgage Corporation.

16 (2) Any bank, trust company, savings bank or savings and loan  
17 association, credit union, industrial loan company, or insurance  
18 company, or service or investment company that is wholly owned  
19 and controlled by one of the preceding entities, doing business  
20 under the authority of and in accordance with a license, certificate,  
21 or charter issued by the United States or any state, district, territory,  
22 or commonwealth of the United States.

23 (3) Any corporation with outstanding securities registered under  
24 Section 12 of the Securities Exchange Act of 1934 or any wholly  
25 owned subsidiary of that corporation.

26 (4) A residential mortgage lender or servicer licensed to make  
27 residential mortgage loans under this law.

28 (l) “Law” means the California Residential Mortgage Lending  
29 Act.

30 (m) “Lender” means a person that (1) is an approved lender for  
31 the Federal Housing Administration, Veterans Administration,  
32 Farmers Home Administration, Government National Mortgage  
33 Association, Federal National Mortgage Association, or Federal  
34 Home Loan Mortgage Corporation, (2) directly makes residential  
35 mortgage loans, and (3) makes the credit decision in the loan  
36 transactions.

37 (n) “Licensee” means, depending on the context, a person  
38 licensed under Chapter 2 (commencing with Section 50120),  
39 Chapter 3 (commencing with Section 50130), or Chapter 3.5  
40 (commencing with Section 50140).

- 1 (o) “Makes or making residential mortgage loans” or “mortgage  
2 lending” means processing, underwriting, or as a lender using or  
3 advancing one’s own funds, or making a commitment to advance  
4 one’s own funds, to a loan applicant for a residential mortgage  
5 loan.
- 6 (p) “Mortgage loan,” “residential mortgage loan,” or “home  
7 mortgage loan” means a federally related mortgage loan as defined  
8 in Section 3500.2 of Title 24 of the Code of Federal Regulations,  
9 or a loan made to finance construction of a one-to-four family  
10 dwelling.
- 11 (q) “Mortgage servicer” or “residential mortgage loan servicer”  
12 means a person that (1) is an approved servicer for the Federal  
13 Housing Administration, Veterans Administration, Farmers Home  
14 Administration, Government National Mortgage Association,  
15 Federal National Mortgage Association, or Federal Home Loan  
16 Mortgage Corporation, and (2) directly services or offers to service  
17 mortgage loans.
- 18 (r) “Nationwide Mortgage Licensing System and Registry”  
19 means a mortgage licensing system developed and maintained by  
20 the Conference of State Bank Supervisors and the American  
21 Association of Residential Mortgage Regulators for the licensing  
22 and registration of licensed mortgage loan originators.
- 23 (s) “Net worth” has the meaning set forth in Section 50201.
- 24 (t) “Own funds” means (1) cash, corporate capital, or warehouse  
25 credit lines at commercial banks, savings banks, savings and loan  
26 associations, industrial loan companies, or other sources that are  
27 liability items on a lender’s financial statements, whether secured  
28 or unsecured, or (2) a lender’s affiliate’s cash, corporate capital,  
29 or warehouse credit lines at commercial banks or other sources  
30 that are liability items on the affiliate’s financial statements,  
31 whether secured or unsecured. “Own funds” does not include funds  
32 provided by a third party to fund a loan on condition that the third  
33 party will subsequently purchase or accept an assignment of that  
34 loan.
- 35 (u) “Person” means a natural person, a sole proprietorship, a  
36 corporation, a partnership, a limited liability company, an  
37 association, a trust, a joint venture, an unincorporated organization,  
38 a joint stock company, a government or a political subdivision of  
39 a government, and any other entity.

1 (v) “Residential real property” or “residential real estate” means  
2 real property located in this state that is improved by a one-to-four  
3 family dwelling.

4 (w) “SAFE Act” means the federal Secure and Fair Enforcement  
5 for Mortgage Licensing Act of 2008 (Public Law 110-289).

6 (x) “Service” or “servicing” means receiving more than three  
7 installment payments of principal, interest, or other amounts placed  
8 in escrow, pursuant to the terms of a mortgage loan and performing  
9 services by a licensee relating to that receipt or the enforcement  
10 of its receipt, on behalf of the holder of the note evidencing that  
11 loan.

12 (y) “Sell” includes exchange, offer to sell, or solicitation to sell.

13 (z) “Unique identifier” means a number or other identifier  
14 assigned by protocols established by the Nationwide Mortgage  
15 Licensing System and Registry.

16 (aa) For purposes of Sections 50142, 50143, and 50145,  
17 “nontraditional mortgage product” means any mortgage product  
18 other than a 30-year fixed rate mortgage.

19 (ab) For purposes of Section 50141, “expungement” means the  
20 subsequent order under the provisions of Section 1203.4 of the  
21 Penal Code allowing such individual to withdraw his or her plea  
22 of guilty and to enter a plea of not guilty, or setting aside the verdict  
23 of guilty or dismissing the accusation, information, or indictment.  
24 With respect to criminal convictions in another state, that state’s  
25 definition of expungement will apply.

26 SEC. 29. Section 11552 of the Government Code is amended  
27 to read:

28 11552. (a) Effective January 1, 1988, an annual salary of  
29 eighty-five thousand four hundred two dollars (\$85,402) shall be  
30 paid to each of the following:

- 31 (1) Commissioner of Financial ~~Institutions~~ *Services*.
- 32 ~~(2) Commissioner of Corporations.~~
- 33 ~~(3)~~
- 34 (2) Director of Transportation.
- 35 ~~(4)~~
- 36 (3) Real Estate Commissioner.
- 37 ~~(5)~~
- 38 (4) Director of Social Services.
- 39 ~~(6)~~
- 40 (5) Director of Water Resources.

- 1     ~~(7)~~
- 2     (6) Director of General Services.
- 3     ~~(8)~~
- 4     (7) Director of Motor Vehicles.
- 5     ~~(9)~~
- 6     (8) Executive Officer of the Franchise Tax Board.
- 7     ~~(10)~~
- 8     (9) Director of Employment Development.
- 9     ~~(11)~~
- 10    (10) Director of Alcoholic Beverage Control.
- 11    ~~(12)~~
- 12    (11) Director of Housing and Community Development.
- 13    ~~(13)~~
- 14    (12) Director of Alcohol and Drug Programs.
- 15    ~~(14)~~
- 16    (13) Director of Statewide Health Planning and Development.
- 17    ~~(15)~~
- 18    (14) Director of the Department of Personnel Administration.
- 19    ~~(16)~~
- 20    (15) Director of Health Care Services.
- 21    ~~(17)~~
- 22    (16) Director of Mental Health.
- 23    ~~(18)~~
- 24    (17) Director of Developmental Services.
- 25    ~~(19)~~
- 26    (18) State Public Defender.
- 27    ~~(20)~~
- 28    (19) Director of the California State Lottery.
- 29    ~~(21)~~
- 30    (20) Director of Fish and ~~Game~~ *Wildlife*.
- 31    ~~(22)~~
- 32    (21) Director of Parks and Recreation.
- 33    ~~(23)~~
- 34    (22) Director of Rehabilitation.
- 35    ~~(24)~~
- 36    (23) Director of the Office of Administrative Law.
- 37    ~~(25)~~
- 38    (24) Director of Consumer Affairs.
- 39    ~~(26)~~
- 40    (25) Director of Forestry and Fire Protection.

- 1     ~~(27)~~  
2     (26) The Inspector General pursuant to Section 6125 of the  
3 Penal Code.  
4     ~~(28)~~  
5     (27) Director of Child Support Services.  
6     ~~(29)~~  
7     (28) Director of Industrial Relations.  
8     ~~(30)~~  
9     (29) Director of Toxic Substances Control.  
10    ~~(31)~~  
11    (30) Director of Pesticide Regulation.  
12    ~~(32)~~  
13    (31) Director of *the Department of* Managed Health Care.  
14    ~~(33)~~  
15    (32) Director of Environmental Health Hazard Assessment.  
16    ~~(34)~~  
17    (33) Director of Technology.  
18    ~~(35)~~  
19    (34) Director of California Bay-Delta Authority.  
20    ~~(36)~~  
21    (35) Director of California Conservation Corps.  
22    (b) The annual compensation provided by this section shall be  
23 increased in any fiscal year in which a general salary increase is  
24 provided for state employees. The amount of the increase provided  
25 by this section shall be comparable to, but shall not exceed, the  
26 percentage of the general salary increases provided for state  
27 employees during that fiscal year.  
28    SEC. 30. Section 12804 is added to the Government Code, to  
29 read:  
30    12804. There is in the state government the Business and  
31 Consumer Services Agency.  
32    The Business and Consumer Services Agency consists of the  
33 following: the Department of Consumer Affairs, the Department  
34 of Housing and Community Development, the Department of Fair  
35 Employment and Housing, the Department of Financial Services,  
36 the Department of Alcoholic Beverage Control, the Alcoholic  
37 Beverage Control Appeals Board, the California Horse Racing  
38 Board, and the Alfred E. Alquist Seismic Safety Commission.

1 SEC. 31. Section 13978.6 of the Government Code, as amended  
2 by Section 18 of Chapter 147 of the Statutes of 2012, is amended  
3 to read:

4 13978.6. (a) There is in the Business, Consumer Services, and  
5 Housing Agency a Department of ~~Business Oversight~~ *Financial*  
6 *Services* containing the Division of Corporations, which has the  
7 responsibility for administering various laws. In order to effectively  
8 support the Division of Corporations in the administration of these  
9 laws, there is hereby established the State Corporations Fund. All  
10 expenses and salaries of the Division of Corporations shall be paid  
11 out of the State Corporations Fund. Therefore, notwithstanding  
12 any provision of any law administered by the Division of  
13 Corporations declaring that fees, reimbursements, assessments, or  
14 other money or amounts charged and collected by the Division of  
15 Corporations under these laws are to be delivered or transmitted  
16 to the Treasurer and deposited to the credit of the General Fund,  
17 all fees, reimbursements, assessments, and other money or amounts  
18 charged and collected under these laws shall be delivered or  
19 transmitted to the Treasurer and deposited to the credit of the State  
20 Corporations Fund.

21 (b) Funds appropriated from the State Corporations Fund and  
22 made available for expenditure for any law or program of the  
23 Division of Corporations may come from the following:

24 (1) Fees and any other amounts charged and collected pursuant  
25 to Section 25608 of the Corporations Code, except for fees and  
26 other amounts charged and collected pursuant to subdivisions (o)  
27 to (r), inclusive, of Section 25608 of the Corporations Code.

28 (2) Fees collected pursuant to subdivisions (a), (b), (c), and (d)  
29 of Section 25608.1 of the Corporations Code.

30 SEC. 32. Section 13984 of the Government Code is amended  
31 to read:

32 13984. In order to ensure that Section 10240.3 of the Business  
33 and Professions Code and Sections 215.5, 22171, and 50333 of  
34 the Financial Code are applied consistently to all California entities  
35 engaged in the brokering, originating, servicing, underwriting, and  
36 issuance of nontraditional mortgage products, the secretary shall  
37 ensure that the *Director of Consumer Affairs or the Commissioner*  
38 *of Real Estate, the Commissioner of Financial Institutions,* and  
39 *the Commissioner of Corporations Financial Services* coordinate  
40 their policymaking and rulemaking efforts.

1     SEC. 33. Notwithstanding Section 12080.8 of the Government  
2 Code, Sections 1 to 32, inclusive, of this act shall prevail over  
3 Section 35 of, Sections 40 to 67, inclusive, of, and Sections 197,  
4 202, 215, and 216 of, the Governor's Reorganization Plan No. 2  
5 of 2012.

O