

Assembly Bill No. 2289

CHAPTER 782

An act to amend Sections 25620, 31116, and 31121 of, and to add Section 31158 to, the Corporations Code, and to amend Sections 12201, 17201, 22101, and 23005 of the Financial Code, relating to business.

[Approved by Governor September 29, 2014. Filed with
Secretary of State September 29, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2289, Daly. Business filings.

(1) The Corporate Securities Law of 1968 authorizes the Commissioner of Business Oversight to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

This bill would provide additional examples of what meets the definition of an "electronic record."

(2) The Franchise Investment Law generally provides for the regulation of the offer and sale of franchises by the Commissioner of Business Oversight. The law specifically provides that the registration of the offer of franchises automatically becomes effective at noon on the 15th business day after the filing of the application for registration or the last amendment, except as specified.

This bill would instead provide that the offer automatically becomes effective on the 30th day after the filing of a complete application, similarly extend the time for a renewal of an offer, as specified, and define terms for these purposes. This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(3) The Check Sellers, Bill Payers and Proraters Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in business under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(4) The Escrow Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as an escrow agent under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(5) The California Finance Lenders Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license as a finance lender or broker under its provisions.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

(6) The California Deferred Deposit Transaction Law generally requires the Commissioner of Business Oversight to, among other things, proscribe the form of the application for a license to engage in the businesses of offering, making, or arranging a deferred deposit transaction, as specified.

This bill would authorize the commissioner to prescribe circumstances under which to accept electronic records or electronic signatures, as defined.

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

SECTION 1. Section 25620 of the Corporations Code is amended to read:

25620. (a) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means. “Electronic record” also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any qualification, registration, order, permit, certificate, license, consent, or other authority.

(B) A financial statement, reports, or advertising.

(C) An order, permit, certificate, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, qualification, registration, order, permit, certificate, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(c) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, including broker-dealer and investment adviser applications, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 2. Section 31116 of the Corporations Code is amended to read:

31116. (a) Except as provided in subdivision (b), if no stop order under Section 31115 is in effect under this law, registration of the offer of franchises automatically becomes effective at 12 o'clock noon, California time, of the 30th business day after the filing of a complete application for registration or the last preeffective amendment thereto, or at such earlier time as the commissioner determines.

(b) With respect to any application for registration or the last amendment thereto filed between January 1, 1971, and March 15, 1971, if no stop order under Section 31115 is in effect under this law, registration becomes effective on April 15, 1971; with respect to any application filed after March 15, 1971 and before May 10, 1971, if no stop order under Section 31115 is in effect under this law, registration becomes effective on June 1, 1971, or the 15th business day after the filing, whichever is the later, or at such earlier time as the commissioner determines.

(c) For purposes of this section, "complete application" means an application that contains the appropriate filing fee, Uniform Franchise Disclosure Document, and all additional exhibits, including financial statements in conformity with regulations of the commissioner. "Preeffective amendment" means an amendment to an application that is filed before the effective date of the registration of the sale of franchises.

SEC. 3. Section 31121 of the Corporations Code is amended to read:

31121. (a) The registration may be renewed for additional periods of one year each, unless the commissioner by rule or order specifies a different period, by submitting to the commissioner a renewal application before the expiration of the registration. If no stop order or other order under Section 31115 is in effect under this law, registration of the offer of the franchises automatically becomes renewed effective at 12 o'clock noon, California time, of the 30th business day after the filing of a complete application for registration or the last preeffective amendment or at such earlier time as the commissioner determines.

(b) For purposes of this section, "complete application" means an application that contains the appropriate filing fee, Uniform Franchise Disclosure Document, and all additional exhibits, including financial statements in conformity with regulations of the commissioner. "Preeffective amendment" means an amendment to an application that is filed before the effective date of the registration of the sale of franchises.

SEC. 4. Section 31158 is added to the Corporations Code, to read:

31158. (a) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Electronic record" means an initial registration application, registration renewal statement, preeffective amendment, posteffective amendment, or material modification and any other record created, generated,

sent, communicated, received, or stored by electronic means. “Electronic record” also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any registration, order, license, consent, or other authority.

(B) A financial statement, reports, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, registration, order, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(c) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, including broker-dealer and investment adviser applications, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 5. Section 12201 of the Financial Code is amended to read:

12201. (a) An application for a license shall be in writing, under oath, and in a form prescribed by the commissioner and shall contain the name, and the address both of the residence and place of business, of the applicant and if the applicant is a partnership or association, of every member thereof, and if a corporation, of every officer and director thereof.

(b) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(c) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. “Electronic record” also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B) A financial statement, reports, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(d) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 6. Section 17201 of the Financial Code is amended to read:

17201. (a) An application for a license as an escrow agent shall be in writing and in such form as is prescribed by the commissioner. The application shall be verified by the oath of the applicant.

(b) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(c) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. “Electronic records” also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any order, license, consent, or other authority.

(B) A financial statement, reports, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, registration, order, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(d) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 7. Section 22101 of the Financial Code is amended to read:

22101. (a) An application for a license as a finance lender or broker under this division shall be in the form and contain the information that the commissioner may by rule or order require and shall be filed upon payment of the fee specified in Section 22103.

(b) Notwithstanding any other law, an applicant who does not currently hold a license as a finance lender or broker under this division shall furnish, with his or her application, a full set of fingerprints and related information for purposes of the commissioner conducting a criminal history record check. The commissioner shall obtain and receive criminal history information from the Department of Justice and the Federal Bureau of Investigation pursuant to Section 22101.5.

(c) This section shall not be construed to prevent a licensee from engaging in the business of a finance lender through a subsidiary corporation if the subsidiary corporation is licensed pursuant to this division.

(d) For purposes of this section, “subsidiary corporation” means a corporation that is wholly owned by a licensee.

(e) A new application shall not be required for a change in the address of an existing location previously licensed under this division. However, the licensee shall comply with the requirements of Section 22153.

(f) Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require an application to be made through the Nationwide Mortgage Licensure System and Registry, and may require fees, fingerprints, financial statements, supporting documents, changes of address, and any other information, and amendments or modifications thereto, to be submitted in the same manner.

(g) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(h) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. “Electronic records” also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B) A financial statement, reports, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(i) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

SEC. 8. Section 23005 of the Financial Code is amended to read:

23005. (a) A person shall not offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction without first obtaining a license from the commissioner and complying with the provisions of this division. The requirements of this subdivision shall not apply to persons or entities that are excluded from the definition of “licensee” as set forth in Section 23001. This division shall not be construed to require the commissioner to create separate classes of licenses.

(b) An application for a license under this division shall be in the form and contain the information that the commissioner may by rule require and shall be filed upon payment of the fee specified in Section 23006.

(c) A licensee with one or more licensed locations seeking an additional location license may file a short form license application as may be established by the commissioner pursuant to subdivision (b) of this section.

(d) Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section shall not require the commissioner to accept electronic records or electronic signatures.

(e) For purposes of this section, the following terms have the following meanings:

(1) “Electronic record” means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. “Electronic records” also includes, but is not limited to, all of the following:

(A) An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B) A financial statement, reports, or advertising.

(C) An order, license, consent, or other authority.

(D) A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E) A proposed decision of a hearing officer and a decision of the commissioner.

(F) The transcripts of a hearing.

(G) A release, newsletter, interpretive opinion, determination, or specific ruling.

(H) Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(f) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.