

ASSEMBLY BILL

No. 2763

**Introduced by Committee on Accountability and Administrative
Review**

March 26, 2014

An act to amend Sections 10176.1 and 19869 of the Business and Professions Code, to amend Sections 1936.01, 2924.12, 2924.17, 2924.19, and 2924.20 of the Civil Code, to amend Sections 580d and 684.115 of the Code of Civil Procedure, to amend Sections 163, 201, 2510, 2601, 5122, 7122, 9122, and 12302 of the Corporations Code, to amend Sections 371, 380, 1514, 2105, 5106, 14381, 14382, 14652.5, 18002.5, 18022.5, and 23001 of the Financial Code, to amend Sections 6254.5, 7465, 7474, 7480, 13975.2, 13995.40.5, 51298, 65040.9, and 66620 of, to amend the heading of Part 4.5 (commencing with Section 13975) of Division 3 of Title 2 of, to amend and renumber Sections 13975.1 and 13978.6 of, to repeal Chapter 5 (commencing with Section 13999) of Part 4.7 of Division 3 of Title 2 of, and to repeal Chapter 9.7 (commencing with Section 8790) of Division 1 of Title 2 of, the Government Code, to amend Section 44272.5 of the Health and Safety Code, to amend Sections 12414.31 and 12710 of the Insurance Code, to amend Section 2802 of the Penal Code, and to amend Section 22003 of, and to repeal Section 22553.2 of, the Public Utilities Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2763, as introduced, Committee on Accountability and Administrative Review. State government operations.

(1) Existing law and the Governor's Reorganization Plan No. 2 of 2012 (GRP 2), effective on July 3, 2012, and operative on July 1, 2013,

assigns and reorganizes the functions of state government among executive officers, agencies, and other state entities.

This bill would generally enact conforming changes to statutes to reflect the assignment and reorganization of the functions of state government within the newly established structure of state government. This bill would reallocate specified duties of reorganized and abolished state entities and their officers to established state entities and officers, including, but not limited to, reallocating specified duties of the abolished Business, Transportation and Housing Agency and its secretary to the Governor's Office of Business and Economic Development, the Transportation Agency and its secretary, and the Business, Consumer Services, and Housing Agency and its secretary. This bill would further reallocate certain existing duties to the Department of Business Oversight and its commissioner and other specified duties from the California Gambling Control Commission to the Department of Justice.

(2) The Space Enterprise Development Act requires the Business, Transportation and Housing Agency, an abolished agency, to implement a space enterprise development program to foster activities that increase the competitiveness of space enterprise in California.

This bill would repeal the act.

(3) Existing law establishes the California Collider Commission composed of the Governor, the Lieutenant Governor, the Treasurer, the President of the University of California, the Director of Finance, and the Secretary of Business, Transportation and Housing, an abolished state office. Existing law creates the commission for the purpose of representing the state before various entities in federal government concerning a proposal by the United States Department of Energy to construct a particle accelerator, known as a superconducting super collider. Existing law also authorizes land acquisition, financing alternatives, including an authorization for a bond issuance, and employment training and other support programs to site and construct the federal superconducting super collider within the state.

This bill would repeal these provisions.

(4) Existing law requires, subject to a specified condition and relating in part to the Secretary of Business, Transportation and Housing, an abolished state office, the advertised rate for a rental car to include certain charges.

This bill would remove that condition.

(5) This bill would make technical, nonsubstantive, and conforming changes.

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 10176.1 of the Business and Professions
2 Code is amended to read:

3 10176.1. (a) (1) Whenever the commissioner takes any
4 enforcement or disciplinary action against a licensee, and the
5 enforcement or disciplinary action is related to escrow services
6 provided pursuant to paragraph (4) of subdivision (a) of Section
7 17006 of the Financial Code, upon the action becoming final the
8 commissioner shall notify the Insurance Commissioner and the
9 Commissioner of Business Oversight of the action or actions taken.
10 The purpose of this notification is to alert the departments that
11 enforcement or disciplinary action has been taken, if the licensee
12 seeks or obtains employment with entities regulated by the
13 departments.

14 (2) The commissioner shall provide the Insurance Commissioner
15 and the Commissioner of Business Oversight, in addition to the
16 notification of the action taken, with a copy of the written
17 accusation, statement of issues, or order issued or filed in the matter
18 and, at the request of the Insurance Commissioner or the
19 Commissioner of Business Oversight, with any underlying factual
20 material relevant to the enforcement or disciplinary action. Any
21 confidential information provided by the commissioner to the
22 Insurance Commissioner or the Commissioner of Business
23 Oversight shall not be made public pursuant to this section.
24 Notwithstanding any other provision of law, the disclosure of any
25 underlying factual material to the Insurance Commissioner or the
26 Commissioner of Business Oversight shall not operate as a waiver
27 of confidentiality or any privilege that the commissioner may
28 assert.

29 (b) The commissioner shall establish and maintain, on the Web
30 site maintained by the Bureau of Real Estate, a database of its
31 licensees, including those who have been subject to any
32 enforcement or disciplinary action that triggers the notification
33 requirements of this section. The database shall also contain a

1 direct link to the databases, described in Section 17423.1 of the
2 Financial Code and Section 12414.31 of the Insurance Code and
3 required to be maintained on the Web sites of the Department of
4 ~~Corporations~~ *Business Oversight* and the Department of Insurance,
5 respectively, of persons who have been subject to enforcement or
6 disciplinary action for malfeasance or misconduct related to the
7 escrow industry by the Insurance Commissioner and the
8 Commissioner of Business Oversight.

9 (c) There shall be no liability on the part of, and no cause of
10 action of any nature shall arise against, the State of California, the
11 Bureau of Real Estate, the Real Estate Commissioner, any other
12 state agency, or any officer, agent, employee, consultant, or
13 contractor of the state, for the release of any false or unauthorized
14 information pursuant to this section, unless the release of that
15 information was done with knowledge and malice, or for the failure
16 to release any information pursuant to this section.

17 SEC. 2. Section 19869 of the Business and Professions Code
18 is amended to read:

19 19869. A request for withdrawal of any application may be
20 made at any time prior to final action upon the application by the
21 chief by the filing of a written request to withdraw with the
22 ~~commission.~~ *department*. For the purposes of this section, final
23 action by the department means a final determination by the chief
24 regarding his or her recommendation on the application to the
25 commission. The commission shall not grant the request unless
26 the applicant has established that withdrawal of the application
27 would be consistent with the public interest and the policies of this
28 chapter. If a request for withdrawal is denied, the department may
29 go forward with its investigation and make a recommendation to
30 the commission upon the application, and the commission may
31 act upon the application as if no request for withdrawal had been
32 made. If a request for withdrawal is granted with prejudice, the
33 applicant thereafter shall be ineligible to renew its application until
34 the expiration of one year from the date of the withdrawal. Unless
35 the commission otherwise directs, no fee or other payment relating
36 to any application is refundable by reason of withdrawal of an
37 application.

38 SEC. 3. Section 1936.01 of the Civil Code is amended to read:

39 1936.01. (a) For the purpose of this section, the following
40 definitions shall apply:

1 (1) “Airport concession fee” means a charge collected by a
2 rental company from a renter that is the renter’s proportionate
3 share of the amount paid by the rental company to the owner or
4 operator of an airport for the right or privilege of conducting a
5 vehicle rental business on the airport’s premises.

6 (2) “Quote” means an estimated cost of rental provided by a
7 rental company or a third party to a potential customer by
8 telephone, in-person, computer-transmission, or other means, that
9 is based on information provided by the potential customer and
10 used to generate an estimated cost of rental, including, but not
11 limited to, any of the following: potential dates of rental, locations,
12 or classes of car.

13 (3) “Tourism commission assessment” means the charge
14 collected by a rental company from a renter that has been
15 established by the California Travel and Tourism Commission
16 pursuant to Section 13995.65 of the Government Code.

17 (b) Notwithstanding subdivision (n) of Section 1936, the
18 following provisions shall apply:

19 (1) A rental company shall only advertise a rental rate that
20 includes the entire amount, except taxes, a customer facility charge,
21 if any, and a mileage charge, if any, that a renter must pay to hire
22 or lease the vehicle for the period of time to which the rental rate
23 applies.

24 (2) When providing a quote, or imposing charges for a rental,
25 the rental company may separately state the rental rate, taxes,
26 customer facility charge, if any, airport concession fee, if any,
27 tourism commission assessment, if any, and a mileage charge, if
28 any, that a renter must pay to hire or lease the vehicle for the period
29 of time to which the rental rate applies. A rental company may not
30 charge in addition to the rental rate, taxes, a customer facility
31 charge, if any, airport concession fee, if any, tourism commission
32 assessment, if any, and a mileage charge, if any, any fee that must
33 be paid by the renter as a condition of hiring or leasing the vehicle,
34 such as, but not limited to, required fuel or airport surcharges other
35 than customer facility charges and airport concession fees.

36 (3) If customer facility charges, airport concession fees, or
37 tourism commission assessments are imposed, the rental company
38 shall do each of the following:

39 (A) At the time the quote is given, provide the person receiving
40 the quote with a good faith estimate of the rental rate, taxes,

1 customer facility charge, if any, airport concession fee, if any, and
2 tourism commission assessment, if any, as well as the total charges
3 for the entire rental. The total charges, if provided on an Internet
4 Web site, shall be displayed in a typeface at least as large as any
5 rental rate disclosed on that page and shall be provided on a page
6 that the person receiving the quote may reach by following links
7 through no more than two Internet Web site pages, including the
8 page on which the rental rate is first provided. The good faith
9 estimate may exclude mileage charges and charges for optional
10 items that cannot be determined prior to completing the reservation
11 based upon the information provided by the person.

12 (B) At the time and place the rental commences, clearly and
13 conspicuously disclose in the rental contract, or that portion of the
14 contract that is provided to the renter, the total of the rental rate,
15 taxes, customer facility charge, if any, airport concession fee, if
16 any, and tourism commission assessment, if any, for the entire
17 rental, exclusive of charges that cannot be determined at the time
18 the rental commences. Charges imposed pursuant to this
19 subparagraph shall be no more than the amount of the quote
20 provided in a confirmed reservation, unless the person changes
21 the terms of the rental contract subsequent to making the
22 reservation.

23 (C) Provide each person, other than those persons within the
24 rental company, offering quotes to actual or prospective customers
25 access to information about customer facility charges, airport
26 concession fees, and tourism commission assessments as well as
27 access to information about when those charges apply. Any person
28 providing quotes to actual or prospective customers for the hire
29 or lease of a vehicle from a rental company shall provide the quotes
30 in the manner described in subparagraph (A).

31 (4) In addition to the rental rate, taxes, customer facility charges,
32 if any, airport concession fees, if any, tourism commission
33 assessments, if any, and mileage charges, if any, a rental company
34 may charge for an item or service provided in connection with a
35 particular rental transaction if the renter could have avoided
36 incurring the charge by choosing not to obtain or utilize the
37 optional item or service. Items and services for which the rental
38 company may impose an additional charge, include, but are not
39 limited to, optional insurance and accessories requested by the
40 renter, service charges incident to the renter's optional return of

1 the vehicle to a location other than the location where the vehicle
2 was hired or leased, and charges for refueling the vehicle at the
3 conclusion of the rental transaction in the event the renter did not
4 return the vehicle with as much fuel as was in the fuel tank at the
5 beginning of the rental. A rental company also may impose an
6 additional charge based on reasonable age criteria established by
7 the rental company.

8 (5) A rental company may not charge any fee for authorized
9 drivers in addition to the rental charge for an individual renter.

10 (6) If a rental company states a rental rate in print advertisement
11 or in a telephonic, in-person, or computer-transmitted quote, the
12 rental company shall clearly disclose in that advertisement or quote
13 the terms of any mileage conditions relating to the rental rate
14 disclosed in the advertisement or quote, including, but not limited
15 to, to the extent applicable, the amount of mileage and gas charges,
16 the number of miles for which no charges will be imposed, and a
17 description of geographic driving limitations within the United
18 States and Canada.

19 (7) (A) When a rental rate is stated in an advertisement, in
20 connection with a car rental at an airport where a customer facility
21 charge is imposed, the rental company shall clearly disclose the
22 existence and amount of the customer facility charge. For the
23 purposes of this subparagraph, advertisements include radio,
24 television, other electronic media, and print advertisements. If the
25 rental rate advertisement is intended to include transactions at more
26 than one airport imposing a customer facility charge, a range of
27 charges may be stated in the advertisement. However, all rental
28 rate advertisements that include car rentals at airport destinations
29 shall clearly and conspicuously include a toll-free telephone
30 number whereby a customer can be told the specific amount of
31 the customer facility charge to which the customer will be
32 obligated.

33 (B) If any person or entity other than a rental car company,
34 including a passenger carrier or a seller of travel services, advertises
35 a rental rate for a car rental at an airport where a customer facility
36 charge is imposed, that person or entity shall, provided they are
37 provided with information about the existence and amount of the
38 charge, to the extent not specifically prohibited by federal law,
39 clearly disclose the existence and amount of the charge. If a rental
40 car company provides the person or entity with rental rate and

1 customer facility charge information, the rental car company is
2 not responsible for the failure of that person or entity to comply
3 with this subparagraph.

4 (8) If a rental company delivers a vehicle to a renter at a location
5 other than the location where the rental company normally carries
6 on its business, the rental company may not charge the renter any
7 amount for the rental for the period before the delivery of the
8 vehicle. If a rental company picks up a rented vehicle from a renter
9 at a location other than the location where the rental company
10 normally carries on its business, the rental company may not charge
11 the renter any amount for the rental for the period after the renter
12 notifies the rental company to pick up the vehicle.

13 (9) Except as otherwise permitted pursuant to the customer
14 facility charge, a rental company may not separately charge, in
15 addition to the rental rate, a fee for transporting the renter to the
16 location where the rented vehicle will be delivered to the renter.

17 (c) A renter may bring an action against a rental company for
18 the recovery of damages and appropriate equitable relief for a
19 violation of this section. The prevailing party shall be entitled to
20 recover reasonable attorney's fees and costs.

21 (d) Any waiver of any of the provisions of this section shall be
22 void and unenforceable as contrary to public policy.

23 ~~(e) This section shall become operative only if the Secretary of~~
24 ~~Business, Transportation and Housing provides notice to the~~
25 ~~Legislature and the Secretary of State and posts notice on its~~
26 ~~Internet Web site that the conditions described in Section 13995.92~~
27 ~~of the Government Code have been satisfied.~~

28 SEC. 4. Section 2924.12 of the Civil Code, as added by Section
29 16 of Chapter 86 of the Statutes of 2012, is amended to read:

30 2924.12. (a) (1) If a trustee's deed upon sale has not been
31 recorded, a borrower may bring an action for injunctive relief to
32 enjoin a material violation of Section 2923.55, 2923.6, 2923.7,
33 2924.9, 2924.10, 2924.11, or 2924.17.

34 (2) Any injunction shall remain in place and any trustee's sale
35 shall be enjoined until the court determines that the mortgage
36 servicer, mortgagee, trustee, beneficiary, or authorized agent has
37 corrected and remedied the violation or violations giving rise to
38 the action for injunctive relief. An enjoined entity may move to
39 dissolve an injunction based on a showing that the material
40 violation has been corrected and remedied.

1 (b) After a trustee’s deed upon sale has been recorded, a
2 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
3 agent shall be liable to a borrower for actual economic damages
4 pursuant to Section 3281, resulting from a material violation of
5 Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or
6 2924.17 by that mortgage servicer, mortgagee, trustee, beneficiary,
7 or authorized agent where the violation was not corrected and
8 remedied prior to the recordation of the trustee’s deed upon sale.
9 If the court finds that the material violation was intentional or
10 reckless, or resulted from willful misconduct by a mortgage
11 servicer, mortgagee, trustee, beneficiary, or authorized agent, the
12 court may award the borrower the greater of treble actual damages
13 or statutory damages of fifty thousand dollars (\$50,000).

14 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or
15 authorized agent shall not be liable for any violation that it has
16 corrected and remedied prior to the recordation of a trustee’s deed
17 upon sale, or that has been corrected and remedied by third parties
18 working on its behalf prior to the recordation of a trustee’s deed
19 upon sale.

20 (d) A violation of Section 2923.55, 2923.6, 2923.7, 2924.9,
21 2924.10, 2924.11, or 2924.17 by a person licensed by the
22 Department of Corporations, ~~Department of Financial Institutions,~~
23 ~~or Department~~ *Business Oversight or the Bureau* of Real Estate
24 shall be deemed to be a violation of that person’s licensing law.

25 (e) No violation of this article shall affect the validity of a sale
26 in favor of a bona fide purchaser and any of its encumbrancers for
27 value without notice.

28 (f) A third-party encumbrancer shall not be relieved of liability
29 resulting from violations of Section 2923.55, 2923.6, 2923.7,
30 2924.9, 2924.10, 2924.11, or 2924.17 committed by that third-party
31 encumbrancer, that occurred prior to the sale of the subject property
32 to the bona fide purchaser.

33 (g) A signatory to a consent judgment entered in the case entitled
34 United States of America et al. v. Bank of America Corporation
35 et al., filed in the United States District Court for the District of
36 Columbia, case number 1:12-cv-00361 RMC, that is in compliance
37 with the relevant terms of the Settlement Term Sheet of that
38 consent judgment with respect to the borrower who brought an
39 action pursuant to this section while the consent judgment is in

1 effect shall have no liability for a violation of Section 2923.55,
2 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or 2924.17.

3 (h) The rights, remedies, and procedures provided by this section
4 are in addition to and independent of any other rights, remedies,
5 or procedures under any other law. Nothing in this section shall
6 be construed to alter, limit, or negate any other rights, remedies,
7 or procedures provided by law.

8 (i) A court may award a prevailing borrower reasonable
9 attorney’s fees and costs in an action brought pursuant to this
10 section. A borrower shall be deemed to have prevailed for purposes
11 of this subdivision if the borrower obtained injunctive relief or
12 was awarded damages pursuant to this section.

13 (j) This section shall not apply to entities described in
14 subdivision (b) of Section 2924.18.

15 (k) This section shall remain in effect only until January 1,
16 2018, and as of that date is repealed, unless a later enacted statute,
17 that is enacted before January 1, 2018, deletes or extends that date.

18 SEC. 5. Section 2924.12 of the Civil Code, as added by Section
19 16 of Chapter 87 of the Statutes of 2012, is amended to read:

20 2924.12. (a) (1) If a trustee’s deed upon sale has not been
21 recorded, a borrower may bring an action for injunctive relief to
22 enjoin a material violation of Section 2923.55, 2923.6, 2923.7,
23 2924.9, 2924.10, 2924.11, or 2924.17.

24 (2) Any injunction shall remain in place and any trustee’s sale
25 shall be enjoined until the court determines that the mortgage
26 servicer, mortgagee, trustee, beneficiary, or authorized agent has
27 corrected and remedied the violation or violations giving rise to
28 the action for injunctive relief. An enjoined entity may move to
29 dissolve an injunction based on a showing that the material
30 violation has been corrected and remedied.

31 (b) After a trustee’s deed upon sale has been recorded, a
32 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
33 agent shall be liable to a borrower for actual economic damages
34 pursuant to Section 3281, resulting from a material violation of
35 Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or
36 2924.17 by that mortgage servicer, mortgagee, trustee, beneficiary,
37 or authorized agent where the violation was not corrected and
38 remedied prior to the recordation of the trustee’s deed upon sale.
39 If the court finds that the material violation was intentional or
40 reckless, or resulted from willful misconduct by a mortgage

1 servicer, mortgagee, trustee, beneficiary, or authorized agent, the
2 court may award the borrower the greater of treble actual damages
3 or statutory damages of fifty thousand dollars (\$50,000).

4 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or
5 authorized agent shall not be liable for any violation that it has
6 corrected and remedied prior to the recordation of a trustee's deed
7 upon sale, or that has been corrected and remedied by third parties
8 working on its behalf prior to the recordation of a trustee's deed
9 upon sale.

10 (d) A violation of Section 2923.55, 2923.6, 2923.7, 2924.9,
11 2924.10, 2924.11, or 2924.17 by a person licensed by the
12 Department of Corporations, Department of Financial Institutions,
13 or Department *Business Oversight or the Bureau* of Real Estate
14 shall be deemed to be a violation of that person's licensing law.

15 (e) No violation of this article shall affect the validity of a sale
16 in favor of a bona fide purchaser and any of its encumbrancers for
17 value without notice.

18 (f) A third-party encumbrancer shall not be relieved of liability
19 resulting from violations of Section 2923.55, 2923.6, 2923.7,
20 2924.9, 2924.10, 2924.11, or 2924.17 committed by that third-party
21 encumbrancer, that occurred prior to the sale of the subject property
22 to the bona fide purchaser.

23 (g) A signatory to a consent judgment entered in the case entitled
24 United States of America et al. v. Bank of America Corporation
25 et al., filed in the United States District Court for the District of
26 Columbia, case number 1:12-cv-00361 RMC, that is in compliance
27 with the relevant terms of the Settlement Term Sheet of that
28 consent judgment with respect to the borrower who brought an
29 action pursuant to this section while the consent judgment is in
30 effect shall have no liability for a violation of Section 2923.55,
31 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or 2924.17.

32 (h) The rights, remedies, and procedures provided by this section
33 are in addition to and independent of any other rights, remedies,
34 or procedures under any other law. Nothing in this section shall
35 be construed to alter, limit, or negate any other rights, remedies,
36 or procedures provided by law.

37 (i) A court may award a prevailing borrower reasonable
38 attorney's fees and costs in an action brought pursuant to this
39 section. A borrower shall be deemed to have prevailed for purposes

1 of this subdivision if the borrower obtained injunctive relief or
2 was awarded damages pursuant to this section.

3 (j) This section shall not apply to entities described in
4 subdivision (b) of Section 2924.18.

5 (k) This section shall remain in effect only until January 1,
6 2018, and as of that date is repealed, unless a later enacted statute,
7 that is enacted before January 1, 2018, deletes or extends that date.

8 SEC. 6. Section 2924.12 of the Civil Code, as added by Section
9 17 of Chapter 86 of the Statutes of 2012, is amended to read:

10 2924.12. (a) (1) If a trustee’s deed upon sale has not been
11 recorded, a borrower may bring an action for injunctive relief to
12 enjoin a material violation of Section 2923.5, 2923.7, 2924.11, or
13 2924.17.

14 (2) Any injunction shall remain in place and any trustee’s sale
15 shall be enjoined until the court determines that the mortgage
16 servicer, mortgagee, trustee, beneficiary, or authorized agent has
17 corrected and remedied the violation or violations giving rise to
18 the action for injunctive relief. An enjoined entity may move to
19 dissolve an injunction based on a showing that the material
20 violation has been corrected and remedied.

21 (b) After a trustee’s deed upon sale has been recorded, a
22 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
23 agent shall be liable to a borrower for actual economic damages
24 pursuant to Section 3281, resulting from a material violation of
25 Section 2923.5, 2923.7, 2924.11, or 2924.17 by that mortgage
26 servicer, mortgagee, trustee, beneficiary, or authorized agent where
27 the violation was not corrected and remedied prior to the
28 recordation of the trustee’s deed upon sale. If the court finds that
29 the material violation was intentional or reckless, or resulted from
30 willful misconduct by a mortgage servicer, mortgagee, trustee,
31 beneficiary, or authorized agent, the court may award the borrower
32 the greater of treble actual damages or statutory damages of fifty
33 thousand dollars (\$50,000).

34 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or
35 authorized agent shall not be liable for any violation that it has
36 corrected and remedied prior to the recordation of the trustee’s
37 deed upon sale, or that has been corrected and remedied by third
38 parties working on its behalf prior to the recordation of the trustee’s
39 deed upon sale.

1 (d) A violation of Section 2923.5, 2923.7, 2924.11, or 2924.17
2 by a person licensed by the Department of ~~Corporations,~~
3 ~~Department of Financial Institutions,~~ or Department *Business*
4 *Oversight or the Bureau* of Real Estate shall be deemed to be a
5 violation of that person's licensing law.

6 (e) No violation of this article shall affect the validity of a sale
7 in favor of a bona fide purchaser and any of its encumbrancers for
8 value without notice.

9 (f) A third-party encumbrancer shall not be relieved of liability
10 resulting from violations of Section 2923.5, 2923.7, 2924.11, or
11 2924.17 committed by that third-party encumbrancer, that occurred
12 prior to the sale of the subject property to the bona fide purchaser.

13 (g) The rights, remedies, and procedures provided by this section
14 are in addition to and independent of any other rights, remedies,
15 or procedures under any other law. Nothing in this section shall
16 be construed to alter, limit, or negate any other rights, remedies,
17 or procedures provided by law.

18 (h) A court may award a prevailing borrower reasonable
19 attorney's fees and costs in an action brought pursuant to this
20 section. A borrower shall be deemed to have prevailed for purposes
21 of this subdivision if the borrower obtained injunctive relief or
22 was awarded damages pursuant to this section.

23 (i) This section shall become operative on January 1, 2018.

24 SEC. 7. Section 2924.12 of the Civil Code, as added by Section
25 17 of Chapter 87 of the Statutes of 2012, is amended to read:

26 2924.12. (a) (1) If a trustee's deed upon sale has not been
27 recorded, a borrower may bring an action for injunctive relief to
28 enjoin a material violation of Section 2923.5, 2923.7, 2924.11, or
29 2924.17.

30 (2) Any injunction shall remain in place and any trustee's sale
31 shall be enjoined until the court determines that the mortgage
32 servicer, mortgagee, trustee, beneficiary, or authorized agent has
33 corrected and remedied the violation or violations giving rise to
34 the action for injunctive relief. An enjoined entity may move to
35 dissolve an injunction based on a showing that the material
36 violation has been corrected and remedied.

37 (b) After a trustee's deed upon sale has been recorded, a
38 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
39 agent shall be liable to a borrower for actual economic damages
40 pursuant to Section 3281, resulting from a material violation of

1 Section 2923.5, 2923.7, 2924.11, or 2924.17 by that mortgage
2 servicer, mortgagee, trustee, beneficiary, or authorized agent where
3 the violation was not corrected and remedied prior to the
4 recordation of the trustee's deed upon sale. If the court finds that
5 the material violation was intentional or reckless, or resulted from
6 willful misconduct by a mortgage servicer, mortgagee, trustee,
7 beneficiary, or authorized agent, the court may award the borrower
8 the greater of treble actual damages or statutory damages of fifty
9 thousand dollars (\$50,000).

10 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or
11 authorized agent shall not be liable for any violation that it has
12 corrected and remedied prior to the recordation of the trustee's
13 deed upon sale, or that has been corrected and remedied by third
14 parties working on its behalf prior to the recordation of the trustee's
15 deed upon sale.

16 (d) A violation of Section 2923.5, 2923.7, 2924.11, or 2924.17
17 by a person licensed by the Department of ~~Corporations,~~
18 ~~Department of Financial Institutions, or Department~~ *Business*
19 *Oversight or the Bureau* of Real Estate shall be deemed to be a
20 violation of that person's licensing law.

21 (e) No violation of this article shall affect the validity of a sale
22 in favor of a bona fide purchaser and any of its encumbrancers for
23 value without notice.

24 (f) A third-party encumbrancer shall not be relieved of liability
25 resulting from violations of Section 2923.5, 2923.7, 2924.11, or
26 2924.17 committed by that third-party encumbrancer, that occurred
27 prior to the sale of the subject property to the bona fide purchaser.

28 (g) The rights, remedies, and procedures provided by this section
29 are in addition to and independent of any other rights, remedies,
30 or procedures under any other law. Nothing in this section shall
31 be construed to alter, limit, or negate any other rights, remedies,
32 or procedures provided by law.

33 (h) A court may award a prevailing borrower reasonable
34 attorney's fees and costs in an action brought pursuant to this
35 section. A borrower shall be deemed to have prevailed for purposes
36 of this subdivision if the borrower obtained injunctive relief or
37 was awarded damages pursuant to this section.

38 (i) This section shall become operative on January 1, 2018.

39 SEC. 8. Section 2924.17 of the Civil Code, as added by Section
40 20 of Chapter 86 of the Statutes of 2012, is amended to read:

1 2924.17. (a) A declaration recorded pursuant to Section 2923.5
2 or, until January 1, 2018, pursuant to Section 2923.55, a notice of
3 default, notice of sale, assignment of a deed of trust, or substitution
4 of trustee recorded by or on behalf of a mortgage servicer in
5 connection with a foreclosure subject to the requirements of Section
6 2924, or a declaration or affidavit filed in any court relative to a
7 foreclosure proceeding shall be accurate and complete and
8 supported by competent and reliable evidence.

9 (b) Before recording or filing any of the documents described
10 in subdivision (a), a mortgage servicer shall ensure that it has
11 reviewed competent and reliable evidence to substantiate the
12 borrower's default and the right to foreclose, including the
13 borrower's loan status and loan information.

14 (c) Until January 1, 2018, any mortgage servicer that engages
15 in multiple and repeated uncorrected violations of subdivision (b)
16 in recording documents or filing documents in any court relative
17 to a foreclosure proceeding shall be liable for a civil penalty of up
18 to seven thousand five hundred dollars (\$7,500) per mortgage or
19 deed of trust in an action brought by a government entity identified
20 in Section 17204 of the Business and Professions Code, or in an
21 administrative proceeding brought by the Department of
22 ~~Corporations, Business Oversight or the Department Bureau~~ of
23 Real Estate, ~~or the Department of Financial Institutions~~ against a
24 respective licensee, in addition to any other remedies available to
25 these entities. This subdivision shall be inoperative on January 1,
26 2018.

27 SEC. 9. Section 2924.17 of the Civil Code, as added by Section
28 20 of Chapter 87 of the Statutes of 2012, is amended to read:

29 2924.17. (a) A declaration recorded pursuant to Section 2923.5
30 or, until January 1, 2018, pursuant to Section 2923.55, a notice of
31 default, notice of sale, assignment of a deed of trust, or substitution
32 of trustee recorded by or on behalf of a mortgage servicer in
33 connection with a foreclosure subject to the requirements of Section
34 2924, or a declaration or affidavit filed in any court relative to a
35 foreclosure proceeding shall be accurate and complete and
36 supported by competent and reliable evidence.

37 (b) Before recording or filing any of the documents described
38 in subdivision (a), a mortgage servicer shall ensure that it has
39 reviewed competent and reliable evidence to substantiate the

1 borrower’s default and the right to foreclose, including the
2 borrower’s loan status and loan information.

3 (c) Until January 1, 2018, any mortgage servicer that engages
4 in multiple and repeated uncorrected violations of subdivision (b)
5 in recording documents or filing documents in any court relative
6 to a foreclosure proceeding shall be liable for a civil penalty of up
7 to seven thousand five hundred dollars (\$7,500) per mortgage or
8 deed of trust in an action brought by a government entity identified
9 in Section 17204 of the Business and Professions Code, or in an
10 administrative proceeding brought by the Department of
11 ~~Corporations, Business Oversight or the Department Bureau~~ of
12 Real Estate, ~~or the Department of Financial Institutions~~ against a
13 respective licensee, in addition to any other remedies available to
14 these entities. This subdivision shall be inoperative on January 1,
15 2018.

16 SEC. 10. Section 2924.19 of the Civil Code, as amended by
17 Section 17 of Chapter 76 of the Statutes of 2013, is amended to
18 read:

19 2924.19. (a) (1) If a trustee’s deed upon sale has not been
20 recorded, a borrower may bring an action for injunctive relief to
21 enjoin a material violation of Section 2923.5, 2924.17, or 2924.18.

22 (2) An injunction shall remain in place and any trustee’s sale
23 shall be enjoined until the court determines that the mortgage
24 servicer, mortgagee, beneficiary, or authorized agent has corrected
25 and remedied the violation or violations giving rise to the action
26 for injunctive relief. An enjoined entity may move to dissolve an
27 injunction based on a showing that the material violation has been
28 corrected and remedied.

29 (b) After a trustee’s deed upon sale has been recorded, a
30 mortgage servicer, mortgagee, beneficiary, or authorized agent
31 shall be liable to a borrower for actual economic damages pursuant
32 to Section 3281, resulting from a material violation of Section
33 2923.5, 2924.17, or 2924.18 by that mortgage servicer, mortgagee,
34 beneficiary, or authorized agent where the violation was not
35 corrected and remedied prior to the recordation of the trustee’s
36 deed upon sale. If the court finds that the material violation was
37 intentional or reckless, or resulted from willful misconduct by a
38 mortgage servicer, mortgagee, beneficiary, or authorized agent,
39 the court may award the borrower the greater of treble actual
40 damages or statutory damages of fifty thousand dollars (\$50,000).

1 (c) A mortgage servicer, mortgagee, beneficiary, or authorized
2 agent shall not be liable for any violation that it has corrected and
3 remedied prior to the recordation of the trustee's deed upon sale,
4 or that has been corrected and remedied by third parties working
5 on its behalf prior to the recordation of the trustee's deed upon
6 sale.

7 (d) A violation of Section 2923.5, 2924.17, or 2924.18 by a
8 person licensed by the Department of Corporations, the Department
9 of Financial Institutions, or the Department *Business Oversight or*
10 *the Bureau* of Real Estate shall be deemed to be a violation of that
11 person's licensing law.

12 (e) A violation of this article shall not affect the validity of a
13 sale in favor of a bona fide purchaser and any of its encumbrancers
14 for value without notice.

15 (f) A third-party encumbrancer shall not be relieved of liability
16 resulting from violations of Section 2923.5, 2924.17, or 2924.18,
17 committed by that third-party encumbrancer, that occurred prior
18 to the sale of the subject property to the bona fide purchaser.

19 (g) The rights, remedies, and procedures provided by this section
20 are in addition to and independent of any other rights, remedies,
21 or procedures under any other law. Nothing in this section shall
22 be construed to alter, limit, or negate any other rights, remedies,
23 or procedures provided by law.

24 (h) A court may award a prevailing borrower reasonable
25 attorney's fees and costs in an action brought pursuant to this
26 section. A borrower shall be deemed to have prevailed for purposes
27 of this subdivision if the borrower obtained injunctive relief or
28 damages pursuant to this section.

29 (i) This section shall apply only to entities described in
30 subdivision (b) of Section 2924.18.

31 (j) This section shall remain in effect only until January 1, 2018,
32 and as of that date is repealed, unless a later enacted statute, that
33 is enacted before January 1, 2018, deletes or extends that date.

34 SEC. 11. Section 2924.19 of the Civil Code, as amended by
35 Section 18 of Chapter 76 of the Statutes of 2013, is amended to
36 read:

37 2924.19. (a) (1) If a trustee's deed upon sale has not been
38 recorded, a borrower may bring an action for injunctive relief to
39 enjoin a material violation of Section 2923.5, 2924.17, or 2924.18.

1 (2) An injunction shall remain in place and any trustee's sale
2 shall be enjoined until the court determines that the mortgage
3 servicer, mortgagee, beneficiary, or authorized agent has corrected
4 and remedied the violation or violations giving rise to the action
5 for injunctive relief. An enjoined entity may move to dissolve an
6 injunction based on a showing that the material violation has been
7 corrected and remedied.

8 (b) After a trustee's deed upon sale has been recorded, a
9 mortgage servicer, mortgagee, beneficiary, or authorized agent
10 shall be liable to a borrower for actual economic damages pursuant
11 to Section 3281, resulting from a material violation of Section
12 2923.5, 2924.17, or 2924.18 by that mortgage servicer, mortgagee,
13 beneficiary, or authorized agent where the violation was not
14 corrected and remedied prior to the recordation of the trustee's
15 deed upon sale. If the court finds that the material violation was
16 intentional or reckless, or resulted from willful misconduct by a
17 mortgage servicer, mortgagee, beneficiary, or authorized agent,
18 the court may award the borrower the greater of treble actual
19 damages or statutory damages of fifty thousand dollars (\$50,000).

20 (c) A mortgage servicer, mortgagee, beneficiary, or authorized
21 agent shall not be liable for any violation that it has corrected and
22 remedied prior to the recordation of the trustee's deed upon sale,
23 or that has been corrected and remedied by third parties working
24 on its behalf prior to the recordation of the trustee's deed upon
25 sale.

26 (d) A violation of Section 2923.5, 2924.17, or 2924.18 by a
27 person licensed by the Department of Corporations, ~~the Department~~
28 ~~of Financial Institutions, or the Department~~ *Business Oversight or*
29 *the Bureau* of Real Estate shall be deemed to be a violation of that
30 person's licensing law.

31 (e) A violation of this article shall not affect the validity of a
32 sale in favor of a bona fide purchaser and any of its encumbrancers
33 for value without notice.

34 (f) A third-party encumbrancer shall not be relieved of liability
35 resulting from violations of Section 2923.5, 2924.17, or 2924.18,
36 committed by that third-party encumbrancer, that occurred prior
37 to the sale of the subject property to the bona fide purchaser.

38 (g) The rights, remedies, and procedures provided by this section
39 are in addition to and independent of any other rights, remedies,
40 or procedures under any other law. Nothing in this section shall

1 be construed to alter, limit, or negate any other rights, remedies,
2 or procedures provided by law.

3 (h) A court may award a prevailing borrower reasonable
4 attorney's fees and costs in an action brought pursuant to this
5 section. A borrower shall be deemed to have prevailed for purposes
6 of this subdivision if the borrower obtained injunctive relief or
7 damages pursuant to this section.

8 (i) This section shall apply only to entities described in
9 subdivision (b) of Section 2924.18.

10 (j) This section shall remain in effect only until January 1, 2018,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before January 1, 2018, deletes or extends that date.

13 SEC. 12. Section 2924.20 of the Civil Code, as added by
14 Section 23 of Chapter 86 of the Statutes of 2012, is amended to
15 read:

16 2924.20. Consistent with their general regulatory authority,
17 and notwithstanding subdivisions (b) and (c) of Section 2924.18,
18 the Department of ~~Corporations, the Department of Financial~~
19 ~~Institutions, and the Department~~ *Business Oversight and the Bureau*
20 of Real Estate may adopt regulations applicable to any entity or
21 person under their respective jurisdictions that are necessary to
22 carry out the purposes of the act that added this section. A violation
23 of the regulations adopted pursuant to this section shall only be
24 enforceable by the regulatory agency.

25 SEC. 13. Section 2924.20 of the Civil Code, as added by
26 Section 23 of Chapter 87 of the Statutes of 2012, is amended to
27 read:

28 2924.20. Consistent with their general regulatory authority,
29 and notwithstanding subdivisions (b) and (c) of Section 2924.18,
30 the Department of ~~Corporations, the Department of Financial~~
31 ~~Institutions, and the Department~~ *Business Oversight and the Bureau*
32 of Real Estate may adopt regulations applicable to any entity or
33 person under their respective jurisdictions that are necessary to
34 carry out the purposes of the act that added this section. A violation
35 of the regulations adopted pursuant to this section shall only be
36 enforceable by the regulatory agency.

37 SEC. 14. Section 580d of the Code of Civil Procedure is
38 amended to read:

39 580d. (a) Except as provided in subdivision (b), no deficiency
40 shall be owed or collected, and no deficiency judgment shall be

1 rendered for a deficiency on a note secured by a deed of trust or
2 mortgage on real property or an estate for years therein executed
3 in any case in which the real property or estate for years therein
4 has been sold by the mortgagee or trustee under power of sale
5 contained in the mortgage or deed of trust.

6 (b) The fact that no deficiency shall be owed or collected under
7 the circumstances set forth in subdivision (a) does not affect the
8 liability that a guarantor, pledgor or other surety might otherwise
9 have with respect to the deficiency, or that might otherwise be
10 satisfied in whole or in part from other collateral pledged to secure
11 the obligation that is the subject of the deficiency.

12 (c) This section does not apply to a deed of trust, mortgage, or
13 other lien given to secure the payment of bonds or other evidences
14 of indebtedness authorized or permitted to be issued by the
15 Commissioner of ~~Corporations~~, *Business Oversight* or which is
16 made by a public utility subject to the Public Utilities Act (Part 1
17 (commencing with Section 201) of Division 1 of the Public Utilities
18 Code).

19 SEC. 15. Section 684.115 of the Code of Civil Procedure is
20 amended to read:

21 684.115. (a) A financial institution may, and if it has more
22 than nine branches or offices at which it conducts its business
23 within this state shall, designate one or more central locations for
24 service of legal process within this state. Each designated location
25 shall be referred to as a “central location.” If a financial institution
26 elects or is required to designate a central location for service of
27 legal process, the financial institution shall file a notice of its
28 designation with the Department of ~~Financial Institutions~~, *Business*
29 *Oversight* which filing shall be effective upon filing and shall
30 contain all of the following:

- 31 (1) The physical address of the central location.
- 32 (2) The days and hours during which service will be accepted
33 at the central location.
- 34 (3) If the central location will not accept service of legal process
35 directed at deposit accounts maintained or property held at all of
36 the financial institution’s branches or offices within this state, or
37 if the service accepted at the central location will not apply to
38 safe-deposit boxes or other property of the judgment debtor held
39 by or for the judgment debtor, the filing shall also contain sufficient
40 information to permit a determination of the limitation or

1 limitations, including, in the case of a limitation applicable to
2 certain branches or offices, an identification of the branches or
3 offices as to which service at the central location will not apply
4 and the nature of the limitation applicable to those branches or
5 offices. If the limitation will apply to all branches or offices of the
6 financial institution within this state, the filing may indicate the
7 nature of the limitation and that it applies to all branches or offices,
8 in lieu of an identification of branches or offices as to which the
9 limitation applies. To the extent that a financial institution's
10 designation of a central location for service of legal process covers
11 the process directed at deposit accounts, safe-deposit boxes, or
12 other property of the judgment debtor held by or for the judgment
13 debtor at a particular branch or office located within this state, the
14 branch or office shall be a branch or office covered by central
15 process.

16 (b) Should a financial institution required to designate a central
17 location fail to do so, each branch of that institution located in this
18 state shall be deemed to be a central location at which service of
19 legal process may be made, and all of the institution's branches
20 or offices located within this state shall be deemed to be a branch
21 or office covered by central process.

22 (c) Subject to any limitation noted pursuant to paragraph (3) of
23 subdivision (a), service of legal process at a central location of a
24 financial institution shall be effective against all deposit accounts
25 and all property held for safekeeping, as collateral for an obligation
26 owed to the financial institution or in a safe-deposit box if the same
27 is described in the legal process and held by the financial institution
28 at any branch or office covered by central process and located
29 within this state. However, while service of legal process at the
30 central location will establish a lien on all property, if any property
31 other than deposit accounts is physically held by the financial
32 institution in a county other than that in which the designated
33 central location is located, the financial institution shall include in
34 its garnishee's memorandum the location or locations of the
35 property, and the judgment creditor shall obtain a writ of execution
36 covering the property and directed to the levying officer in that
37 county to accomplish the turnover of the property and shall forward
38 the writ and related required documentation to the levying officer
39 in the county in which the property is held.

1 (d) A financial institution may modify or revoke any designation
2 made pursuant to subdivision (a) by filing the modification or
3 revocation with the Department of ~~Financial Institutions~~ *Business*
4 *Oversight*. The modification or revocation shall be effective when
5 the Department of ~~Financial Institutions~~ *Business Oversight's*
6 records have been updated to reflect the modification or revocation,
7 provided that the judgment creditor may rely upon the superseded
8 designation during the 30-day period following the effective date
9 of the revocation or modification.

10 (e) (1) The Department of ~~Financial Institutions~~ *Business*
11 *Oversight* shall update its online records to reflect a filing by a
12 financial institution pursuant to subdivision (a) or a modification
13 or revocation filed by a financial institution pursuant to subdivision
14 (d) within 10 business days following the filing by the financial
15 institution. The Department of ~~Financial Institutions~~ *Business*
16 *Oversight's* Internet Web site shall reflect the date its online records
17 for each financial institution have most recently been updated.

18 (2) The Department of ~~Financial Institutions~~ *Business Oversight*
19 shall provide any person requesting it with a copy of each current
20 filing made by a financial institution pursuant to subdivision (a).
21 The Department of ~~Financial Institutions~~ *Business Oversight* may
22 satisfy its obligation under this subdivision by posting all current
23 designations of a financial institution, or the pertinent information
24 therein, on an Internet Web site available to the public without
25 charge, and if that information is made available, the Department
26 of ~~Financial Institutions~~ *Business Oversight* may impose a
27 reasonable fee for furnishing that information in any other manner.

28 (f) As to deposit accounts maintained or property held for
29 safekeeping, as collateral for an obligation owed to the financial
30 institution or in a safe-deposit box at a branch or office covered
31 by central process, service of legal process at a location other than
32 a central location designated by the financial institution shall not
33 be effective unless the financial institution, in its absolute
34 discretion, elects to act upon the process at that location as if it
35 were effective. In the absence of an election, the financial
36 institution may respond to the legal process by mailing or delivery
37 of the garnishee's memorandum to the levying officer within the
38 time otherwise provided therefor, with a statement on the
39 garnishee's memorandum that the legal process was not properly
40 served at the financial institution's designated location for receiving

1 legal process, and, therefore, was not processed, and the address
2 at which the financial institution is to receive legal process.

3 (g) If any legal process is served at a central location of a
4 financial institution pursuant to this section, all related papers to
5 be served on the financial institution shall be served at that location,
6 unless agreed to the contrary between the serving party and the
7 financial institution.

8 (h) This subdivision shall apply whenever a financial institution
9 operates within this state at least one branch or office in addition
10 to its head office or main office, as applicable, or a financial
11 institution headquartered in another state operates more than one
12 branch or office within this state, and no central location has been
13 designated or deemed to have been designated by the institution
14 for service of legal process relating to deposit accounts maintained
15 at the financial institution's head office or main office, as
16 applicable, and branches located within this state. If a judgment
17 creditor reasonably believes that, pursuant to Section 700.140 and,
18 if applicable, Section 700.160, any act of enforcement would be
19 effective against a specific deposit account maintained at a financial
20 institution described in this subdivision, the judgment creditor may
21 file with the financial institution a written request that the financial
22 institution identify the branch or office within this state at which
23 a specified account might be maintained by the financial institution.
24 The written request shall contain the following statements or
25 information:

26 (1) The name of the person reasonably believed by the judgment
27 creditor to be a person in whose name the specified deposit account
28 stands.

29 (2) If the name of the person reasonably believed by the
30 judgment creditor to be a person in whose name the specified
31 deposit account stands is not a judgment debtor identified in the
32 writ of execution, a statement that a person reasonably believed
33 by the judgment creditor to be a person in whose name the specified
34 deposit account stands will be appropriately identified in the legal
35 process to be served pursuant to Section 700.160, including any
36 supplementary papers, such as a court order or affidavit if the same
37 will be required by Section 700.160.

38 (3) The specific identifying number of the account reasonably
39 believed to be maintained with the financial institution and standing
40 in the name of the judgment debtor or other person.

- 1 (4) The address of the requesting party.
- 2 (5) An affidavit by the judgment creditor or the judgment
- 3 creditor’s counsel stating substantially the following:

4
5 I hereby declare that this deposit account location request
6 complies with Section 684.115 of the Code of Civil Procedure,
7 that the account or accounts of the judgment debtor or other person
8 or persons appropriately identified in the legal process and
9 specified herein are subject to a valid writ of execution, or court
10 order, that I have a reasonable belief, formed after an inquiry
11 reasonable under the circumstances, that the financial institution
12 receiving this deposit account location request has an account
13 standing in the name of the judgment debtor or other person or
14 persons appropriately identified in the legal process, and that
15 information pertaining to the location of the account will assist the
16 judgment creditor in enforcing the judgment.

17
18 (i) The affidavit contemplated by subdivision (h) shall be signed
19 by the judgment creditor or the judgment creditor’s counsel and
20 filed at the financial institution’s head office located within this
21 state or, if the financial institution’s head office is in another state,
22 at one of its branches or offices within this state. Failure to comply
23 with the requirements of subdivision (h) and this subdivision shall
24 be sufficient basis for the financial institution to refuse to produce
25 the information that would otherwise be required by subdivision
26 (j).

27 (j) Within 10 banking days following receipt by a financial
28 institution at the applicable location specified in subdivision (i) of
29 a request contemplated by subdivision (h), as to each specific
30 deposit account identified in the request contemplated by
31 subdivision (h), the financial institution shall respond by mailing,
32 by first-class mail with postage prepaid, to the requester’s address
33 as specified in the request a response indicating the branch or office
34 location of the financial institution at which the specified deposit
35 account might be maintained, or, if the specified deposit account,
36 if it exists, would not be maintained at a specific location, at least
37 one place within this state at which legal process relating to the
38 deposit account should or may be served. The response to be
39 furnished pursuant to this subdivision shall not require the financial
40 institution to determine whether an account exists or, if an account

1 does exist, whether it would be reached by the legal process, rather,
2 the branch or office location shall be determined and reported by
3 the financial institution based solely upon its determination that
4 an account with the identifying number provided by the requester
5 would be maintained at that branch if an account did exist, and the
6 response shall not contain any information about the name in which
7 the account stands or any other information concerning the account,
8 if it exists. If more than one account number is specified in the
9 request, the financial institution's responses as to some or all of
10 those account numbers may be combined in a single writing.

11 (k) A response furnished in good faith by the financial institution
12 pursuant to subdivision (j) shall not be deemed to violate the
13 privacy of any person in whose name the specified deposit account
14 stands nor the privacy of any other person, and shall not require
15 the consent of the person in whose name the account stands nor
16 that of any other person.

17 (l) A financial institution shall not notify the person in whose
18 name the specified deposit account stands or any other person
19 related to the specified account of the receipt of any request made
20 pursuant to subdivision (h) and affecting that person's or persons'
21 accounts at the financial institution, provided that the financial
22 institution shall have no liability for its failure to comply with the
23 provisions of this subdivision.

24 SEC. 16. Section 163 of the Corporations Code is amended to
25 read:

26 163. "Corporation subject to the Banking Law" (Division+
27 1.1 (commencing with Section-99) 1000) of the Financial Code)
28 means:

29 (a) Any corporation which, with the approval of the
30 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is
31 incorporated for the purpose of engaging in, or which is authorized
32 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*
33 to engage in, the commercial banking business under Division+
34 1.1 (commencing with Section-99) 1000) of the Financial Code.

35 (b) Any corporation which, with the approval of the
36 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is
37 incorporated for the purpose of engaging in, or which is authorized
38 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*
39 to engage in, the industrial banking business under Division+
40 1.1 (commencing with Section-99) 1000) of the Financial Code.

1 (c) Any corporation (other than a corporation described in
 2 subdivision (d)) which, with the approval of the Commissioner of
 3 ~~Financial Institutions~~, *Business Oversight*, is incorporated for the
 4 purpose of engaging in, or which is authorized by the
 5 Commissioner of ~~Financial Institutions~~ *Business Oversight* to
 6 engage in, the trust business under Division ~~1.1~~ (commencing
 7 with Section ~~99~~ 1000) of the Financial Code.

8 (d) Any corporation which is authorized by the Commissioner
 9 of ~~Financial Institutions~~ *Business Oversight* and the Commissioner
 10 of Insurance to maintain a title insurance department to engage in
 11 title insurance business and a trust department to engage in trust
 12 business; or

13 (e) Any corporation which, with the approval of the
 14 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is
 15 incorporated for the purpose of engaging in, or which is authorized
 16 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*
 17 to engage in, business under Article 1 (commencing with Section
 18 ~~3500~~, 1850), Chapter ~~19~~, 21, Division ~~1.1~~ of the Financial Code.

19 SEC. 17. Section 201 of the Corporations Code is amended to
 20 read:

21 201. (a) The Secretary of State shall not file articles setting
 22 forth a name in which “bank,” “trust,” “trustee” or related words
 23 appear, unless the certificate of approval of the Commissioner of
 24 ~~Financial Institutions~~ *Business Oversight* is attached thereto. This
 25 subdivision does not apply to the articles of any corporation subject
 26 to the Banking Law on which is endorsed the approval of the
 27 Commissioner of ~~Financial Institutions~~. *Business Oversight*.

28 (b) The Secretary of State shall not file articles which set forth
 29 a name which is likely to mislead the public or which is the same
 30 as, or resembles so closely as to tend to deceive, the name of a
 31 domestic corporation, the name of a foreign corporation which is
 32 authorized to transact intrastate business or has registered its name
 33 pursuant to Section 2101, a name which a foreign corporation has
 34 assumed under subdivision (b) of Section 2106, a name which will
 35 become the record name of a domestic or foreign corporation upon
 36 the effective date of a filed corporate instrument where there is a
 37 delayed effective date pursuant to subdivision (c) of Section 110
 38 or subdivision (c) of Section 5008, or a name which is under
 39 reservation for another corporation pursuant to this title, except
 40 that a corporation may adopt a name that is substantially the same

1 as an existing domestic corporation or foreign corporation which
2 is authorized to transact intrastate business or has registered its
3 name pursuant to Section 2101, upon proof of consent by such
4 domestic or foreign corporation and a finding by the Secretary of
5 State that under the circumstances the public is not likely to be
6 misled.

7 The use by a corporation of a name in violation of this section
8 may be enjoined notwithstanding the filing of its articles by the
9 Secretary of State.

10 (c) Any applicant may, upon payment of the fee prescribed
11 therefor in the Government Code, obtain from the Secretary of
12 State a certificate of reservation of any name not prohibited by
13 subdivision (b), and upon the issuance of the certificate the name
14 stated therein shall be reserved for a period of 60 days. The
15 Secretary of State shall not, however, issue certificates reserving
16 the same name for two or more consecutive 60-day periods to the
17 same applicant or for the use or benefit of the same person,
18 partnership, firm or corporation; nor shall consecutive reservations
19 be made by or for the use or benefit of the same person, partnership,
20 firm or corporation of names so similar as to fall within the
21 prohibitions of subdivision (b).

22 SEC. 18. Section 2510 of the Corporations Code is amended
23 to read:

24 2510. “Flexible purpose corporation subject to the Banking
25 Law” means any of the following:

26 (a) A flexible purpose corporation that, with the approval of the
27 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is
28 incorporated for the purpose of engaging in, or that is authorized
29 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*
30 to engage in, the commercial banking business under the Banking
31 Law (Division ~~1.1~~ (commencing with Section ~~99~~ 1000) of the
32 Financial Code).

33 (b) Any flexible purpose corporation that, with the approval of
34 the Commissioner of ~~Financial Institutions~~, *Business Oversight*,
35 is incorporated for the purpose of engaging in, or that is authorized
36 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*
37 to engage in, the industrial banking business under the Banking
38 Law (Division ~~1.1~~ (commencing with Section ~~99~~ 1000) of the
39 Financial Code).

1 (c) Any flexible purpose corporation, other than a flexible
 2 purpose corporation described in subdivision (d), that, with the
 3 approval of the Commissioner of ~~Financial Institutions~~, *Business*
 4 *Oversight*, is incorporated for the purpose of engaging in, or that
 5 is authorized by the Commissioner of ~~Financial Institutions~~
 6 *Business Oversight* to engage in, the trust business under the
 7 Banking Law (Division ~~1.1~~ (commencing with Section ~~99~~) *1000*)
 8 of the Financial Code).

9 (d) Any flexible purpose corporation that is authorized by the
 10 Commissioner of ~~Financial Institutions~~ *Business Oversight* and
 11 the Commissioner of Insurance to maintain a title insurance
 12 department to engage in title insurance business and a trust
 13 department to engage in trust business.

14 (e) Any flexible purpose corporation that, with the approval of
 15 the Commissioner of ~~Financial Institutions~~, *Business Oversight*,
 16 is incorporated for the purpose of engaging in, or that is authorized
 17 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*
 18 to engage in, business under Article 1 (commencing with Section
 19 ~~3500~~) *1850*) of Chapter ~~19~~ *21* of Division ~~1.1~~ of the Financial
 20 Code.

21 SEC. 19. Section 2601 of the Corporations Code is amended
 22 to read:

23 2601. (a) The Secretary of State shall not file articles setting
 24 forth a name in which “bank,” “trust,” “trustee” or related words
 25 appear, unless the certificate of approval of the Commissioner of
 26 ~~Financial Institutions~~ *Business Oversight* is attached to the articles.
 27 This subdivision does not apply to the articles of any flexible
 28 purpose corporation subject to the Banking Law on which is
 29 endorsed the approval of the Commissioner of ~~Financial~~
 30 ~~Institutions~~. *Business Oversight*.

31 (b) The Secretary of State shall not file articles that set forth a
 32 name that is likely to mislead the public or that is the same as, or
 33 resembles so closely as to tend to deceive, the name of a domestic
 34 corporation, the name of a domestic flexible purpose corporation,
 35 or the name of a foreign corporation that is authorized to transact
 36 intrastate business or has registered its name pursuant to Section
 37 2101, a name that a foreign corporation has assumed under
 38 subdivision (b) of Section 2106, a name that will become the record
 39 name of a corporation or flexible purpose corporation or a foreign
 40 corporation upon the effective date of a filed corporate instrument

1 where there is a delayed effective date pursuant to subdivision (c)
2 of Section 110 or subdivision (c) of Section 5008, or a name that
3 is under reservation for another corporation or flexible purpose
4 corporation pursuant to this title, except that a flexible purpose
5 corporation may adopt a name that is substantially the same as an
6 existing corporation or flexible purpose corporation, foreign or
7 domestic, which is authorized to transact intrastate business or has
8 registered its name pursuant to Section 2101, upon proof of consent
9 by the domestic or foreign corporation or flexible purpose
10 corporation and a finding by the Secretary of State that under the
11 circumstances the public is not likely to be misled. The use by a
12 flexible purpose corporation of a name in violation of this section
13 may be enjoined notwithstanding the filing of its articles by the
14 Secretary of State.

15 (c) Any applicant may, upon payment of the fee prescribed in
16 the Government Code, obtain from the Secretary of State a
17 certificate of reservation of any name not prohibited by subdivision
18 (b), and upon the issuance of the certificate the name stated in the
19 certificate shall be reserved for a period of 60 days. The Secretary
20 of State shall not, however, issue certificates reserving the same
21 name for two or more consecutive 60-day periods to the same
22 applicant or for the use or benefit of the same person, partnership,
23 firm, corporation, or flexible purpose corporation. No consecutive
24 reservations shall be made by or for the use or benefit of the same
25 person, partnership, firm, corporation or flexible purpose
26 corporation of names so similar as to fall within the prohibitions
27 of subdivision (b).

28 SEC. 20. Section 5122 of the Corporations Code is amended
29 to read:

30 5122. (a) The Secretary of State shall not file articles setting
31 forth a name in which “bank,” “trust,” “trustee” or related words
32 appear, unless the certificate of approval of the Commissioner of
33 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

34 (b) The Secretary of State shall not file articles which set forth
35 a name which is likely to mislead the public or which is the same
36 as, or resembles so closely as to tend to deceive, the name of a
37 domestic corporation, the name of a foreign corporation which is
38 authorized to transact intrastate business or has registered its name
39 pursuant to Section 2101, a name which a foreign corporation has
40 assumed under subdivision (b) of Section 2106 or a name which

1 will become the record name of a domestic or foreign corporation
2 upon the effective date of a filed corporate instrument where there
3 is a delayed effective date pursuant to subdivision (c) of Section
4 110, or subdivision (c) of Section 5008, or a name which is under
5 reservation pursuant to this title, except that a corporation may
6 adopt a name that is substantially the same as an existing domestic
7 or foreign corporation which is authorized to transact intrastate
8 business or has registered its name pursuant to Section 2101, upon
9 proof of consent by such corporation and a finding by the Secretary
10 of State that under the circumstances the public is not likely to be
11 misled.

12 The use by a corporation of a name in violation of this section
13 may be enjoined notwithstanding the filing of its articles by the
14 Secretary of State.

15 (c) Any applicant may, upon payment of the fee prescribed
16 therefor in the Government Code, obtain from the Secretary of
17 State a certificate of reservation of any name not prohibited by
18 subdivision (b), and upon the issuance of the certificate the name
19 stated therein shall be reserved for a period of 60 days. The
20 Secretary of State shall not, however, issue certificates reserving
21 the same name for two or more consecutive 60-day periods to the
22 same applicant or for the use or benefit of the same person; nor
23 shall consecutive reservations be made by or for the use or benefit
24 of the same person of names so similar as to fall within the
25 prohibitions of subdivision (b).

26 SEC. 21. Section 7122 of the Corporations Code is amended
27 to read:

28 7122. (a) The Secretary of State shall not file articles setting
29 forth a name in which “bank,” “trust,” “trustee” or related words
30 appear, unless the certificate of approval of the Commissioner of
31 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

32 (b) The Secretary of State shall not file articles pursuant to this
33 part setting forth a name which may create the impression that the
34 purpose of the corporation is public, charitable or religious or that
35 it is a charitable foundation.

36 (c) The Secretary of State shall not file articles which set forth
37 a name which is likely to mislead the public or which is the same
38 as, or resembles so closely as to tend to deceive, the name of a
39 domestic corporation, the name of a foreign corporation which is
40 authorized to transact intrastate business or has registered its name

1 pursuant to Section 2101, a name which a foreign corporation has
2 assumed under subdivision (b) of Section 2106, a name which will
3 become the record name of a domestic or foreign corporation upon
4 the effective date of a filed corporate instrument where there is a
5 delayed effective date pursuant to subdivision (c) of Section 110,
6 or subdivision (c) of Section 5008, or a name which is under
7 reservation pursuant to this title, except that a corporation may
8 adopt a name that is substantially the same as an existing domestic
9 or foreign corporation which is authorized to transact intrastate
10 business or has registered its name pursuant to Section 2101, upon
11 proof of consent by such corporation and a finding by the Secretary
12 of State that under the circumstances the public is not likely to be
13 misled.

14 The use by a corporation of a name in violation of this section
15 may be enjoined notwithstanding the filing of its articles by the
16 Secretary of State.

17 (d) Any applicant may, upon payment of the fee prescribed
18 therefor in the Government Code, obtain from the Secretary of
19 State a certificate of reservation of any name not prohibited by
20 subdivision (c), and upon the issuance of the certificate the name
21 stated therein shall be reserved for a period of 60 days. The
22 Secretary of State shall not, however, issue certificates reserving
23 the same name for two or more consecutive 60-day periods to the
24 same applicant or for the use or benefit of the same person; nor
25 shall consecutive reservations be made by or for the use or benefit
26 of the same person of names so similar as to fall within the
27 prohibitions of subdivision (c).

28 SEC. 22. Section 9122 of the Corporations Code is amended
29 to read:

30 9122. (a) The Secretary of State shall not file articles setting
31 forth a name in which “bank,” “trust,” “trustee” or related words
32 appear, unless the certificate of approval of the Commissioner of
33 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

34 (b) The Secretary of State shall not file articles which set forth
35 a name which is likely to mislead the public or which is the same
36 as, or resembles so closely as to tend to deceive, the name of a
37 domestic corporation, the name of a foreign corporation which is
38 authorized to transact intrastate business or has registered its name
39 pursuant to Section 2101, a name which a foreign corporation has
40 assumed under subdivision (b) of Section 2106 or a name which

1 will become the record name of a domestic or foreign corporation
2 upon the effective date of a filed corporate instrument where there
3 is a delayed effective date pursuant to subdivision (c) of Section
4 110 or subdivision (c) of Section 5008, or a name which is under
5 reservation pursuant to this title, except that a corporation may
6 adopt a name that is substantially the same as an existing domestic
7 or foreign corporation which is authorized to transact intrastate
8 business or has registered its name pursuant to Section 2101, upon
9 proof of consent by such corporation and a finding by the Secretary
10 of State that under the circumstances the public is not likely to be
11 misled.

12 The use by a corporation of a name in violation of this section
13 may be enjoined notwithstanding the filing of its articles by the
14 Secretary of State.

15 (c) Any applicant may, upon payment of the fee prescribed
16 therefor in the Government Code, obtain from the Secretary of
17 State a certificate of reservation of any name not prohibited by
18 subdivision (b), and upon the issuance of the certificate the name
19 stated therein shall be reserved for a period of 60 days. The
20 Secretary of State shall not, however, issue certificates reserving
21 the same name for two or more consecutive 60-day periods to the
22 same applicant or for the use or benefit of the same person; nor
23 shall consecutive reservations be made by or for the use or benefit
24 of the same person of names so similar as to fall within the
25 prohibitions of subdivision (b).

26 SEC. 23. Section 12302 of the Corporations Code is amended
27 to read:

28 12302. (a) The Secretary of State shall not file articles setting
29 forth a name in which “bank,” “trust,” “trustee” or related words
30 appear, unless the certificate of approval of the Commissioner of
31 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

32 (b) The Secretary of State shall not file articles which set forth
33 a name which is likely to mislead the public or which is the same
34 as, or resembles so closely as to tend to deceive, the name of a
35 domestic corporation, the name of a foreign corporation which is
36 authorized to transact intrastate business or has registered its name
37 pursuant to Section 2101, a name which a foreign corporation has
38 assumed under subdivision (b) of Section 2106, a name which will
39 become the record name of a domestic or foreign corporation upon
40 the effective date of a filed corporate instrument where there is a

1 delayed effective date pursuant to this title, or a name which is
2 under reservation pursuant to this title, except that a corporation
3 may adopt a name that is substantially the same as an existing
4 domestic or foreign corporation which is authorized to transact
5 intrastate business or has registered its name pursuant to Section
6 2101, upon proof of consent by such corporation and a finding by
7 the Secretary of State that under the circumstances the public is
8 not likely to be misled.

9 (c) The use by a corporation of a name in violation of this
10 section may be enjoined notwithstanding the filing of its articles
11 by the Secretary of State.

12 (d) Any applicant may, upon payment of the fee prescribed
13 therefor in the Government Code, obtain from the Secretary of
14 State a certificate of reservation of any name not prohibited by
15 subdivision (c), and upon the issuance of the certificate the name
16 stated therein shall be reserved for a period of 60 days. The
17 Secretary of State shall not, however, issue certificates reserving
18 the same name for two or more consecutive 60-day periods to the
19 same applicant or for the use or benefit of the same person; nor
20 shall consecutive reservations be made by or for the use or benefit
21 of the same person of names so similar as to fall within the
22 prohibitions of subdivision (c).

23 SEC. 24. Section 371 of the Financial Code is amended to read:

24 371. (a) There is in the Department of Business Oversight, the
25 Division of Corporations, under the direction of the Senior Deputy
26 Commissioner of Business Oversight for the Division of
27 Corporations. The senior deputy commissioner has charge of the
28 execution of the laws of the state that were, prior to July 1, 2013,
29 under the charge of the Department of Corporations.

30 (b) There is in the Department of Business Oversight, the ~~Senior~~
31 ~~Deputy Commissioner of the Department of Business Oversight~~
32 ~~for the Division of Financial Institutions. Under *Institutions under*~~
33 ~~the direction of the senior deputy commissioner, *Senior Deputy*~~
34 ~~*Commissioner for the Division of Financial Institutions. The senior*~~
35 ~~*deputy commissioner* has charge of the execution of the laws of~~
36 ~~the state that were, prior to July 1, 2013, under the charge of the~~
37 ~~Department of Financial Institutions.~~

38 SEC. 25. Section 380 of the Financial Code is amended to read:

39 380. (a) The commissioner shall inform ~~the Commissioner of~~
40 ~~Corporations and other~~ appropriate state and federal officials

1 charged with the regulation of financial institutions or securities
2 transactions of any enforcement actions, including, but not limited
3 to, civil or criminal actions, cease and desist orders, license or
4 authorization suspensions or revocations, or an open investigation.

5 (b) The commissioner shall inform ~~the Commissioner of~~
6 ~~Corporations and other~~ appropriate state and federal officials
7 charged with the regulation of financial institutions or securities
8 transactions if it appears that any bank, bank holding company,
9 savings association, savings and loan holding company, credit
10 union, industrial loan company, industrial loan holding company,
11 or other licensee of the department is conducting its business in a
12 fraudulent, unsafe, unsound, or injurious manner, or has suffered
13 or will suffer substantial financial loss or damage, and it appears
14 to the commissioner that the information is relevant to the
15 regulatory activities of the other agency.

16 SEC. 26. Section 1514 of the Financial Code is amended to
17 read:

18 1514. A commercial bank may organize, sponsor, operate,
19 control, or render investment advice to, an investment company,
20 or underwrite, distribute, or sell securities of any investment
21 company which has qualified to sell its securities in this state
22 pursuant to Part 2 (commencing with Section 25100) of Division
23 1 of Title 4 of the Corporations Code, if the officers and employees
24 of the bank who sell these securities meet such standards with
25 respect to training, experience, and sales practices as established
26 by the Secretary of ~~the Business, Transportation and Housing~~
27 ~~Agency~~ *Business, Consumer Services, and Housing* or the
28 secretary's designee. For the purpose of this section, "investment
29 company" means an investment company as defined in the
30 Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et seq.).

31 SEC. 27. Section 2105 of the Financial Code is amended to
32 read:

33 2105. (a) Each licensee or agent shall prominently post on the
34 premises of each branch office that conducts money transmission
35 a notice stating that:

36
37 "If you have complaints with respect to any aspect of the money
38 transmission activities conducted at this location, you may contact the
39 California Department of Financial Institutions at its toll-free telephone
40 number, 1-800-622-0620, by e-mail at consumer.complaint@dfi.ca.gov;

1 or by mail at Department of Financial Institutions, Consumer Services,
 2 1810 13th Street, Sacramento, CA 95811.” *Department of Business*
 3 *Oversight at its toll-free telephone number 1-800-275-2677, its Internet*
 4 *Web site at www.dbo.ca.gov/Consumer/consumer_services.asp, or by mail*
 5 *at Department of Business Oversight, Consumer Services, 1515 K Street,*
 6 *Suite 200, Sacramento, CA 95814.”*

7
 8 (b) The commissioner may by order or regulation modify the
 9 content of the notice required by this section. This notice shall be
 10 printed in English and in the same language principally used by
 11 the licensee or any agent of the licensee to advertise, solicit, or
 12 negotiate either orally or in writing, with respect to money
 13 transmission at that branch office. The information required in this
 14 notice shall be clear, legible, and in letters not less than one-half
 15 inch in height. The notice shall be posted in a conspicuous location
 16 in the unobstructed view of the public within the premises. The
 17 licensee shall provide to each of its agents the notice required by
 18 this section. In those locations operated by an agent, the agent, and
 19 not the licensee, shall be responsible for the failure to properly
 20 post the required notice.

21 SEC. 28. Section 5106 of the Financial Code is amended to
 22 read:

23 5106. “Department” means ~~the Division of Financial~~
 24 ~~Institutions in the Department of Business Oversight.~~

25 SEC. 29. Section 14381 of the Financial Code is amended to
 26 read:

27 14381. The Credit Union Advisory Committee shall advise the
 28 commissioner and the Deputy Commissioner of ~~Financial~~
 29 ~~Institutions Business Oversight~~ for the ~~Division Office~~ of Credit
 30 Unions on matters relating to credit unions or the credit union
 31 business.

32 SEC. 30. Section 14382 of the Financial Code is amended to
 33 read:

34 14382. (a) The Credit Union Advisory Committee consists of
 35 seven members.

36 (b) The members of the Credit Union Advisory Committee shall
 37 be appointed by the Secretary of ~~the Business, Transportation and~~
 38 ~~Housing Agency. Business, Consumer Services, and Housing.~~

39 (c) The term of a member of the Credit Union Advisory
 40 Committee is two years. However, a member may be reappointed.

1 (d) Membership in the Credit Union Advisory Committee is
2 voluntary. No person is required to accept an appointment to the
3 Credit Union Advisory Committee, and any member may resign
4 by filing a resignation with the commissioner.

5 (e) No member of the Credit Union Advisory Committee shall
6 receive any compensation, reimbursement for expenses, or other
7 payment from the state in connection with service on the Credit
8 Union Advisory Committee.

9 SEC. 31. Section 14652.5 of the Financial Code is amended
10 to read:

11 14652.5. A credit union may organize, sponsor, operate,
12 control, or render investment advice to, an investment company,
13 or underwrite, distribute, or sell securities of any investment
14 company which has qualified to sell its securities in this state
15 pursuant to Part 2 (commencing with Section 25100) of Division
16 1 of Title 4 of the Corporations Code, if the officers and employees
17 of the credit union who sell these securities meet such standards
18 with respect to training, experience, and sales practices as
19 established by the Secretary of ~~the Business, Transportation and~~
20 ~~Housing Agency~~ *Business, Consumer Services, and Housing* or
21 the secretary's designee. For the purpose of this section,
22 "investment company" means an investment company as defined
23 in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et
24 seq.).

25 SEC. 32. Section 18002.5 of the Financial Code is amended
26 to read:

27 18002.5. "Department" means ~~the Division of Financial~~
28 ~~Institutions~~ in the Department of Business Oversight.

29 SEC. 33. Section 18022.5 of the Financial Code is amended
30 to read:

31 18022.5. An industrial loan company may organize, sponsor,
32 operate, control, or render investment advice to, an investment
33 company, or underwrite, distribute, or sell securities of any
34 investment company which has qualified to sell its securities in
35 this state pursuant to Part 2 (commencing with Section 25100) of
36 Division 1, Title 4 of the Corporations Code, if the officers and
37 employees of the industrial loan company who sell these securities
38 meet such standards with respect to training experience, and sales
39 practices as established by the Secretary of ~~the Business,~~
40 ~~Transportation and Housing Agency~~ *Business, Consumer Services,*

1 *and Housing* or the secretary’s designee. For the purpose of this
2 section, “investment company” means an investment company as
3 defined in the Investment Company Act of 1940 (15 U.S.C., Sec.
4 80a-1 et seq.).

5 SEC. 34. Section 23001 of the Financial Code is amended to
6 read:

7 23001. As used in this division, the following terms have the
8 following meanings:

9 (a) “Deferred deposit transaction” means a transaction whereby
10 a person defers depositing a customer’s personal check until a
11 specific date, pursuant to a written agreement for a fee or other
12 charge, as provided in Section 23035.

13 (b) “Commissioner” means the Commissioner of Business
14 Oversight.

15 (c) “Department” means ~~the Division of Corporations within~~
16 the Department of Business Oversight.

17 (d) “Licensee” means any person who offers, originates, or
18 makes a deferred deposit transaction, who arranges a deferred
19 deposit transaction for a deferred deposit originator, who acts as
20 an agent for a deferred deposit originator, or who assists a deferred
21 deposit originator in the origination of a deferred deposit
22 transaction. However, “licensee” does not include a state or
23 federally chartered bank, thrift, savings association, industrial loan
24 company, or credit union. “Licensee” also does not include a retail
25 seller engaged primarily in the business of selling consumer goods,
26 including consumables, to retail buyers that cashes checks or issues
27 money orders for a minimum fee not exceeding two dollars (\$2)
28 as a service to its customers that is incidental to its main purpose
29 or business. “Licensee” also does not include an employee regularly
30 employed by a licensee at the licensee’s place of business. An
31 employee, when acting under the scope of the employee’s
32 employment, shall be exempt from any other law from which the
33 employee’s employer is exempt.

34 (e) “Person” means an individual, a corporation, a partnership,
35 a limited liability company, a joint venture, an association, a joint
36 stock company, a trust, an unincorporated organization, a
37 government entity, or a political subdivision of a government
38 entity.

39 (f) “Deferred deposit originator” means a person who offers,
40 originates, or makes a deferred deposit transaction.

1 SEC. 35. Section 6254.5 of the Government Code is amended
2 to read:

3 6254.5. Notwithstanding any other provisions of the law,
4 whenever a state or local agency discloses a public record which
5 is otherwise exempt from this chapter, to any member of the public,
6 this disclosure shall constitute a waiver of the exemptions specified
7 in Sections 6254, 6254.7, or other similar provisions of law. For
8 purposes of this section, “agency” includes a member, agent,
9 officer, or employee of the agency acting within the scope of his
10 or her membership, agency, office, or employment.

11 This section, however, shall not apply to disclosures:

12 (a) Made pursuant to the Information Practices Act (commencing
13 with Section 1798 of the Civil Code) or discovery proceedings.

14 (b) Made through other legal proceedings or as otherwise
15 required by law.

16 (c) Within the scope of disclosure of a statute which limits
17 disclosure of specified writings to certain purposes.

18 (d) Not required by law, and prohibited by formal action of an
19 elected legislative body of the local agency which retains the
20 writings.

21 (e) Made to any governmental agency which agrees to treat the
22 disclosed material as confidential. Only persons authorized in
23 writing by the person in charge of the agency shall be permitted
24 to obtain the information. Any information obtained by the agency
25 shall only be used for purposes which are consistent with existing
26 law.

27 (f) Of records relating to a financial institution or an affiliate
28 thereof, if the disclosures are made to the financial institution or
29 affiliate by a state agency responsible for the regulation or
30 supervision of the financial institution or affiliate.

31 (g) Of records relating to any person that is subject to the
32 jurisdiction of the Department of Corporations, *Business Oversight*,
33 if the disclosures are made to the person that is the subject of the
34 records for the purpose of corrective action by that person, or if a
35 corporation, to an officer, director, or other key personnel of the
36 corporation for the purpose of corrective action, or to any other
37 person to the extent necessary to obtain information from that
38 person for the purpose of an investigation by the Department of
39 Corporations.

1 (h) Made by the Commissioner of ~~Financial Institutions~~ *Business*
2 *Oversight* under Section ~~280, 282, 450, 452,~~ 8009, or 18396 of the
3 Financial Code.

4 (i) Of records relating to any person that is subject to the
5 jurisdiction of the Department of Managed Health Care, if the
6 disclosures are made to the person that is the subject of the records
7 for the purpose of corrective action by that person, or if a
8 corporation, to an officer, director, or other key personnel of the
9 corporation for the purpose of corrective action, or to any other
10 person to the extent necessary to obtain information from that
11 person for the purpose of an investigation by the Department of
12 Managed Health Care.

13 SEC. 36. Section 7465 of the Government Code is amended
14 to read:

15 7465. For the purposes of this chapter:

16 (a) The term “financial institution” includes state and national
17 banks, state and federal savings associations, trust companies,
18 industrial loan companies, and state and federal credit unions. Such
19 term shall not include a title insurer while engaging in the conduct
20 of the “business of title insurance” as defined by Section 12340.3
21 of the Insurance Code, an underwritten title company, or an escrow
22 company.

23 (b) The term “financial records” means any original or any copy
24 of any record or document held by a financial institution pertaining
25 to a customer of the financial institution.

26 (c) The term “person” means an individual, partnership,
27 corporation, limited liability company, association, trust or any
28 other legal entity.

29 (d) The term “customer” means any person who has transacted
30 business with or has used the services of a financial institution or
31 for whom a financial institution has acted as a fiduciary.

32 (e) The term “state agency” means every state office, officer,
33 department, division, bureau, board, and commission or other state
34 agency, including the Legislature.

35 (f) The term “local agency” includes a county; city, whether
36 general law or chartered; city and county; school district; municipal
37 corporation; district; political subdivision; or any board,
38 commission or agency thereof; or other local public agency.

39 (g) The term “supervisory agency” means any of the following:

1 (1) The Department of ~~Financial Institutions~~. *Business*
2 *Oversight*.

3 (2) The Controller.

4 (3) The Administrator of Local Agency Security.

5 (4) The Bureau of Real Estate.

6 (5) The Department of Insurance.

7 (h) The term “investigation” includes, but is not limited to, any
8 inquiry by a peace officer, sheriff, or district attorney, or any
9 inquiry made for the purpose of determining whether there has
10 been a violation of any law enforceable by imprisonment, fine, or
11 monetary liability.

12 (i) The term “subpoena” includes subpoena duces tecum.

13 SEC. 37. Section 7474 of the Government Code is amended
14 to read:

15 7474. (a) An officer, employee, or agent of a state or local
16 agency or department thereof, may obtain financial records under
17 paragraph (2) of subdivision (a) of Section 7470 pursuant to an
18 administrative subpoena or summons otherwise authorized by law
19 and served upon the financial institution only if:

20 (1) The person issuing such administrative summons or
21 subpoena has served a copy of the subpoena or summons on the
22 customer pursuant to Chapter 4 (commencing with Section 413.10)
23 of Title 5 of Part 2 of the Code of Civil Procedure, which copy
24 may be served by an employee of the state or local agency or
25 department thereof; and

26 (2) The subpoena or summons includes the name of the agency
27 or department in whose name the subpoena or summons is issued
28 and the statutory purpose for which the information is to be
29 obtained; and

30 (3) Ten days after service pass without the customer giving
31 notice to the financial institution that the customer has moved to
32 quash the subpoena.

33 (b) (1) In issuing an administrative subpoena or summons
34 pursuant to subdivision (a), the Attorney General or the
35 Commissioner of ~~Corporations~~ *Business Oversight* pursuant to the
36 enforcement of statutes within his *or her* jurisdiction, or the district
37 attorney of any county in connection with investigations of
38 violations of antitrust law as authorized by Section 16759 of the
39 Business and Professions Code, may petition a court of competent
40 jurisdiction in the county in which the records are located, and the

1 court, upon a showing of a reasonable inference that a law subject
2 to the jurisdiction of the petitioning agency has been or is about
3 to be violated, may order that service upon the customer pursuant
4 to paragraph (1) of subdivision (a) and the 10-day period provided
5 for in paragraph (3) of subdivision (a) be waived or shortened. For
6 the purpose of this subdivision, an “inference” is a deduction that
7 may reasonably be drawn by the Attorney General, the
8 Commissioner of ~~Corporations~~, *Business Oversight*, or the district
9 attorney from facts relevant to the investigation.

10 (2) Such petition may be presented to the court in person or by
11 telephoned oral statement which shall be recorded and transcribed.
12 In the case of telephonic petition, the recording of the sworn oral
13 statement and the transcribed statement shall be certified by the
14 magistrate receiving it and shall be filed with the clerk of the court.

15 (3) Where the court grants such petition, the court shall order
16 the petitioning agency to notify the customer in writing of the
17 examination of records within a period to be determined by the
18 court but not to exceed 60 days of the agency’s receipt of any of
19 the customer’s financial records. The notice shall specify the
20 information otherwise required by paragraph (2) of subdivision
21 (a), and shall also specify the financial records which were
22 examined pursuant to the administrative subpoena or summons.
23 Upon renewed petition, the time of notification may be extended
24 for an additional 30-day period upon good cause to believe that
25 such notification would impede the investigation. Thereafter, by
26 application to a court upon a showing of extreme necessity for
27 continued withholding of notification, such notification
28 requirements may be extended for three additional 30-day periods.

29 (4) The Attorney General shall not provide financial records
30 obtained pursuant to the procedure authorized in this subdivision
31 to a local law enforcement agency unless (i) that agency has
32 independently obtained authorization to receive such financial
33 records pursuant to the provisions of this chapter, or (ii) he *or she*
34 obtains such records in an investigation conducted wholly
35 independently of the local agency and not at its instigation or
36 request.

37 (c) Except as provided in this subdivision, nothing in this chapter
38 shall preclude a financial institution from notifying a customer of
39 the receipt of an administrative summons or subpoena. A court
40 may order a financial institution to withhold notification to a

1 customer of the receipt of an administrative summons or subpoena
2 when the court issues an order pursuant to subdivision (b) and
3 makes a finding that notice to the customer by the financial
4 institution would impede the investigation.

5 (d) If a customer files a motion to quash an administrative
6 subpoena or summons issued pursuant to subdivision (a), such
7 proceedings shall be afforded priority on the court calendar and
8 the matter shall be heard within 10 days from the filing of the
9 motion to quash.

10 SEC. 38. Section 7480 of the Government Code is amended
11 to read:

12 7480. Nothing in this chapter shall prohibit any of the
13 following:

14 (a) The dissemination of any financial information that is not
15 identified with, or identifiable as being derived from, the financial
16 records of a particular customer.

17 (b) When any police or sheriff's department or district attorney
18 in this state certifies to a bank, credit union, or savings association
19 in writing that a crime report has been filed that involves the
20 alleged fraudulent use of drafts, checks, access cards, or other
21 orders drawn upon any bank, credit union, or savings association
22 in this state, the police or sheriff's department or district attorney,
23 a county adult protective services office when investigating the
24 financial abuse of an elder or dependent adult, or a long-term care
25 ombudsman when investigating the financial abuse of an elder or
26 dependent adult, may request a bank, credit union, or savings
27 association to furnish, and a bank, credit union, or savings
28 association shall furnish, a statement setting forth the following
29 information with respect to a customer account specified by the
30 requesting party for a period 30 days prior to, and up to 30 days
31 following, the date of occurrence of the alleged illegal act involving
32 the account:

33 (1) The number of items dishonored.

34 (2) The number of items paid that created overdrafts.

35 (3) The dollar volume of the dishonored items and items paid
36 which created overdrafts and a statement explaining any credit
37 arrangement between the bank, credit union, or savings association
38 and customer to pay overdrafts.

39 (4) The dates and amounts of deposits and debits and the account
40 balance on these dates.

1 (5) A copy of the signature card, including the signature and
2 any addresses appearing on a customer's signature card.

3 (6) The date the account opened and, if applicable, the date the
4 account closed.

5 (7) Surveillance photographs and video recordings of persons
6 accessing the crime victim's financial account via an automated
7 teller machine (ATM) or from within the financial institution for
8 dates on which illegal acts involving the account were alleged to
9 have occurred. Nothing in this paragraph does any of the following:

10 (A) Requires a financial institution to produce a photograph or
11 video recording if it does not possess the photograph or video
12 recording.

13 (B) Affects any existing civil immunities as provided in Section
14 47 of the Civil Code or any other provision of law.

15 (8) A bank, credit union, or savings association that provides
16 the requesting party with copies of one or more complete account
17 statements prepared in the regular course of business shall be
18 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

19 (c) When any police or sheriff's department or district attorney
20 in this state certifies to a bank, credit union, or savings association
21 in writing that a crime report has been filed that involves the
22 alleged fraudulent use of drafts, checks, access cards, or other
23 orders drawn upon any bank, credit union, or savings association
24 doing business in this state, the police or sheriff's department or
25 district attorney, a county adult protective services office when
26 investigating the financial abuse of an elder or dependent adult,
27 or a long-term care ombudsman when investigating the financial
28 abuse of an elder or dependent adult, may request, with the consent
29 of the accountholder, the bank, credit union, or savings association
30 to furnish, and the bank, credit union, or savings association shall
31 furnish, a statement setting forth the following information with
32 respect to a customer account specified by the requesting party for
33 a period 30 days prior to, and up to 30 days following, the date of
34 occurrence of the alleged illegal act involving the account:

35 (1) The number of items dishonored.

36 (2) The number of items paid that created overdrafts.

37 (3) The dollar volume of the dishonored items and items paid
38 which created overdrafts and a statement explaining any credit
39 arrangement between the bank, credit union, or savings association
40 and customer to pay overdrafts.

1 (4) The dates and amounts of deposits and debits and the account
2 balance on these dates.

3 (5) A copy of the signature card, including the signature and
4 any addresses appearing on a customer's signature card.

5 (6) The date the account opened and, if applicable, the date the
6 account closed.

7 (7) Surveillance photographs and video recordings of persons
8 accessing the crime victim's financial account via an automated
9 teller machine (ATM) or from within the financial institution for
10 dates on which illegal acts involving this account were alleged to
11 have occurred. Nothing in this paragraph does any of the following:

12 (A) Requires a financial institution to produce a photograph or
13 video recording if it does not possess the photograph or video
14 recording.

15 (B) Affects any existing civil immunities as provided in Section
16 47 of the Civil Code or any other provision of law.

17 (8) A bank, credit union, or savings association doing business
18 in this state that provides the requesting party with copies of one
19 or more complete account statements prepared in the regular course
20 of business shall be deemed to be in compliance with paragraphs
21 (1), (2), (3), and (4).

22 (d) For purposes of subdivision (c), consent of the accountholder
23 shall be satisfied if an accountholder provides to the financial
24 institution and the person or entity seeking disclosure, a signed
25 and dated statement containing all of the following:

26 (1) Authorization of the disclosure for the period specified in
27 subdivision (c).

28 (2) The name of the agency or department to which disclosure
29 is authorized and, if applicable, the statutory purpose for which
30 the information is to be obtained.

31 (3) A description of the financial records that are authorized to
32 be disclosed.

33 (e) (1) The Attorney General, a supervisory agency, the
34 Franchise Tax Board, the State Board of Equalization, the
35 Employment Development Department, the Controller or an
36 inheritance tax referee when administering the Prohibition of Gift
37 and Death Taxes (Part 8 (commencing with Section 13301) of
38 Division 2 of the Revenue and Taxation Code), a police or sheriff's
39 department or district attorney, a county adult protective services
40 office when investigating the financial abuse of an elder or

1 dependent adult, a long-term care ombudsman when investigating
2 the financial abuse of an elder or dependent adult, a county welfare
3 department when investigating welfare fraud, a county
4 auditor-controller or director of finance when investigating fraud
5 against the county, or the Department of ~~Corporations~~ *Business*
6 *Oversight* when conducting investigations in connection with the
7 enforcement of laws administered by the Commissioner of
8 ~~Corporations~~, *Business Oversight* from requesting of an office or
9 branch of a financial institution, and the office or branch from
10 responding to a request, as to whether a person has an account or
11 accounts at that office or branch and, if so, any identifying numbers
12 of the account or accounts.

13 (2) No additional information beyond that specified in this
14 section shall be released to a county welfare department without
15 either the accountholder's written consent or a judicial writ, search
16 warrant, subpoena, or other judicial order.

17 (3) A county auditor-controller or director of finance who
18 unlawfully discloses information he or she is authorized to request
19 under this subdivision is guilty of the unlawful disclosure of
20 confidential data, a misdemeanor, which shall be punishable as
21 set forth in Section 7485.

22 (f) The examination by, or disclosure to, any supervisory agency
23 of financial records that relate solely to the exercise of its
24 supervisory function. The scope of an agency's supervisory
25 function shall be determined by reference to statutes that grant
26 authority to examine, audit, or require reports of financial records
27 or financial institutions as follows:

28 (1) With respect to the Commissioner of ~~Financial Institutions~~
29 *Business Oversight* by reference to Division 1 (commencing with
30 Section 99), ~~Division 1.5~~ *Division 1.1 (commencing with Section*
31 *1000), Division 1.2 (commencing with Section 2000), Division 1.6*
32 *(commencing with Section 4800), Division 2 (commencing with*
33 *Section 5000), Division 5 (commencing with Section 14000),*
34 *Division 7 (commencing with Section 18000), Division 15*
35 *(commencing with Section 31000), and Division 16 (commencing*
36 *with Section 33000), of the Financial Code.*

37 (2) With respect to the Controller by reference to Title 10
38 (commencing with Section 1300) of Part 3 of the Code of Civil
39 Procedure.

- 1 (3) With respect to the Administrator of Local Agency Security
 2 by reference to Article 2 (commencing with Section 53630) of
 3 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
 4 Code.
- 5 (g) The disclosure to the Franchise Tax Board of (1) the amount
 6 of any security interest that a financial institution has in a specified
 7 asset of a customer or (2) financial records in connection with the
 8 filing or audit of a tax return or tax information return that are
 9 required to be filed by the financial institution pursuant to Part 10
 10 (commencing with Section 17001), Part 11 (commencing with
 11 Section 23001), or Part 18 (commencing with Section 38001), of
 12 the Revenue and Taxation Code.
- 13 (h) The disclosure to the State Board of Equalization of any of
 14 the following:
- 15 (1) The information required by Sections 6702, 6703, 8954,
 16 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
 17 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
 18 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
 19 Revenue and Taxation Code.
- 20 (2) The financial records in connection with the filing or audit
 21 of a tax return required to be filed by the financial institution
 22 pursuant to Part 1 (commencing with Section 6001), Part 2
 23 (commencing with Section 7301), Part 3 (commencing with Section
 24 8601), Part 13 (commencing with Section 30001), Part 14
 25 (commencing with Section 32001), and Part 17 (commencing with
 26 Section 37001), of Division 2 of the Revenue and Taxation Code.
- 27 (3) The amount of any security interest a financial institution
 28 has in a specified asset of a customer, if the inquiry is directed to
 29 the branch or office where the interest is held.
- 30 (i) The disclosure to the Controller of the information required
 31 by Section 7853 of the Revenue and Taxation Code.
- 32 (j) The disclosure to the Employment Development Department
 33 of the amount of any security interest a financial institution has in
 34 a specified asset of a customer, if the inquiry is directed to the
 35 branch or office where the interest is held.
- 36 (k) The disclosure by a construction lender, as defined in Section
 37 8006 of the Civil Code, to the Registrar of Contractors, of
 38 information concerning the making of progress payments to a
 39 prime contractor requested by the registrar in connection with an

1 investigation under Section 7108.5 of the Business and Professions
2 Code.

3 (l) Upon receipt of a written request from a local child support
4 agency referring to a support order pursuant to Section 17400 of
5 the Family Code, a financial institution shall disclose the following
6 information concerning the account or the person named in the
7 request, whom the local child support agency shall identify,
8 whenever possible, by social security number:

9 (1) If the request states the identifying number of an account at
10 a financial institution, the name of each owner of the account.

11 (2) Each account maintained by the person at the branch to
12 which the request is delivered, and, if the branch is able to make
13 a computerized search, each account maintained by the person at
14 any other branch of the financial institution located in this state.

15 (3) For each account disclosed pursuant to paragraphs (1) and
16 (2), the account number, current balance, street address of the
17 branch where the account is maintained, and, to the extent available
18 through the branch's computerized search, the name and address
19 of any other person listed as an owner.

20 (4) Whenever the request prohibits the disclosure, a financial
21 institution shall not disclose either the request or its response, to
22 an owner of the account or to any other person, except the officers
23 and employees of the financial institution who are involved in
24 responding to the request and to attorneys, employees of the local
25 child support agencies, auditors, and regulatory authorities who
26 have a need to know in order to perform their duties, and except
27 as disclosure may be required by legal process.

28 (5) No financial institution, or any officer, employee, or agent
29 thereof, shall be liable to any person for (A) disclosing information
30 in response to a request pursuant to this subdivision, (B) failing to
31 notify the owner of an account, or complying with a request under
32 this paragraph not to disclose to the owner, the request or disclosure
33 under this subdivision, or (C) failing to discover any account owned
34 by the person named in the request pursuant to a computerized
35 search of the records of the financial institution.

36 (6) The local child support agency may request information
37 pursuant to this subdivision only when the local child support
38 agency has received at least one of the following types of physical
39 evidence:

40 (A) Any of the following, dated within the last three years:

- 1 (i) Form 599.
- 2 (ii) Form 1099.
- 3 (iii) A bank statement.
- 4 (iv) A check.
- 5 (v) A bank passbook.
- 6 (vi) A deposit slip.
- 7 (vii) A copy of a federal or state income tax return.
- 8 (viii) A debit or credit advice.
- 9 (ix) Correspondence that identifies the child support obligor by
- 10 name, the bank, and the account number.
- 11 (x) Correspondence that identifies the child support obligor by
- 12 name, the bank, and the banking services related to the account of
- 13 the obligor.
- 14 (xi) An asset identification report from a federal agency.
- 15 (B) A sworn declaration of the custodial parent during the 12
- 16 months immediately preceding the request that the person named
- 17 in the request has had or may have had an account at an office or
- 18 branch of the financial institution to which the request is made.
- 19 (7) Information obtained by a local child support agency
- 20 pursuant to this subdivision shall be used only for purposes that
- 21 are directly connected with the administration of the duties of the
- 22 local child support agency pursuant to Section 17400 of the Family
- 23 Code.
- 24 (m) (1) As provided in paragraph (1) of subdivision (c) of
- 25 Section 666 of Title 42 of the United States Code, upon receipt of
- 26 an administrative subpoena on the current federally approved
- 27 interstate child support enforcement form, as approved by the
- 28 federal Office of Management and Budget, a financial institution
- 29 shall provide the information or documents requested by the
- 30 administrative subpoena.
- 31 (2) The administrative subpoena shall refer to the current federal
- 32 Office of Management and Budget control number and be signed
- 33 by a person who states that he or she is an authorized agent of a
- 34 state or county agency responsible for implementing the child
- 35 support enforcement program set forth in Part D (commencing
- 36 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
- 37 United States Code. A financial institution may rely on the
- 38 statements made in the subpoena and has no duty to inquire into
- 39 the truth of any statement in the subpoena.

1 (3) If the person who signs the administrative subpoena directs
2 a financial institution in writing not to disclose either the subpoena
3 or its response to any owner of an account covered by the subpoena,
4 the financial institution shall not disclose the subpoena or its
5 response to the owner.

6 (4) No financial institution, or any officer, employee, or agent
7 thereof, shall be liable to any person for (A) disclosing information
8 or providing documents in response to a subpoena pursuant to this
9 subdivision, (B) failing to notify any owner of an account covered
10 by the subpoena or complying with a request not to disclose to the
11 owner, the subpoena or disclosure under this subdivision, or (C)
12 failing to discover any account owned by the person named in the
13 subpoena pursuant to a computerized search of the records of the
14 financial institution.

15 (n) The dissemination of financial information and records
16 pursuant to any of the following:

17 (1) Compliance by a financial institution with the requirements
18 of Section 2892 of the Probate Code.

19 (2) Compliance by a financial institution with the requirements
20 of Section 2893 of the Probate Code.

21 (3) An order by a judge upon a written ex parte application by
22 a peace officer showing specific and articulable facts that there
23 are reasonable grounds to believe that the records or information
24 sought are relevant and material to an ongoing investigation of a
25 felony violation of Section 186.10 or of any felony subject to the
26 enhancement set forth in Section 186.11.

27 (A) The ex parte application shall specify with particularity the
28 records to be produced, which shall be only those of the individual
29 or individuals who are the subject of the criminal investigation.

30 (B) The ex parte application and any subsequent judicial order
31 shall be open to the public as a judicial record unless ordered sealed
32 by the court, for a period of 60 days. The sealing of these records
33 may be extended for 60-day periods upon a showing to the court
34 that it is necessary for the continuance of the investigation.
35 Sixty-day extensions may continue for up to one year or until
36 termination of the investigation of the individual or individuals,
37 whichever is sooner.

38 (C) The records ordered to be produced shall be returned to the
39 peace officer applicant or his or her designee within a reasonable
40 time period after service of the order upon the financial institution.

1 (D) Nothing in this subdivision shall preclude the financial
2 institution from notifying a customer of the receipt of the order
3 for production of records unless a court orders the financial
4 institution to withhold notification to the customer upon a finding
5 that the notice would impede the investigation.

6 (E) Where a court has made an order pursuant to this paragraph
7 to withhold notification to the customer under this paragraph, the
8 peace officer or law enforcement agency who obtained the financial
9 information shall notify the customer by delivering a copy of the
10 ex parte order to the customer within 10 days of the termination
11 of the investigation.

12 (4) An order by a judge issued pursuant to subdivision (c) of
13 Section 532f of the Penal Code.

14 (5) No financial institution, or any officer, employee, or agent
15 thereof, shall be liable to any person for any of the following:

16 (A) Disclosing information to a probate court pursuant to
17 Sections 2892 and 2893.

18 (B) Disclosing information in response to a court order pursuant
19 to paragraph (3).

20 (C) Complying with a court order under this subdivision not to
21 disclose to the customer, the order, or the dissemination of
22 information pursuant to the court order.

23 (o) Disclosure by a financial institution to a peace officer, as
24 defined in Section 830.1 of the Penal Code, pursuant to the
25 following:

26 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
27 Civil Code, provided that the financial institution has first complied
28 with the requirements of paragraph (2) of subdivision (a) and
29 subdivision (b) of Section 1748.95 of the Civil Code.

30 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
31 Financial Code, provided that the financial institution has first
32 complied with the requirements of paragraph (2) of subdivision
33 (a) and subdivision (b) of Section 4002 of the Financial Code.

34 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
35 Financial Code, provided that any financial institution that is a
36 finance lender has first complied with the requirements of
37 paragraph (2) of subdivision (a) and subdivision (b) of Section
38 22470 of the Financial Code.

39 (p) When the governing board of the Public Employees'
40 Retirement System or the State Teachers' Retirement System

1 certifies in writing to a financial institution that a benefit recipient
2 has died and that transfers to the benefit recipient's account at the
3 financial institution from the retirement system occurred after the
4 benefit recipient's date of death, the financial institution shall
5 furnish the retirement system with the name and address of any
6 coowner, cosigner, or any other person who had access to the funds
7 in the account following the date of the benefit recipient's death,
8 or if the account has been closed, the name and address of the
9 person who closed the account.

10 (q) When the retirement board of a retirement system established
11 under the County Employees Retirement Law of 1937 certifies in
12 writing to a financial institution that a retired member or the
13 beneficiary of a retired member has died and that transfers to the
14 account of the retired member or beneficiary of a retired member
15 at the financial institution from the retirement system occurred
16 after the date of death of the retired member or beneficiary of a
17 retired member, the financial institution shall furnish the retirement
18 system with the name and address of any coowner, cosigner, or
19 any other person who had access to the funds in the account
20 following the date of death of the retired member or beneficiary
21 of a retired member, or if the account has been closed, the name
22 and address of the person who closed the account.

23 (r) When the Franchise Tax Board certifies in writing to a
24 financial institution that (1) a taxpayer filed a tax return that
25 authorized a direct deposit refund with an incorrect financial
26 institution account or routing number that resulted in all or a
27 portion of the refund not being received, directly or indirectly, by
28 the taxpayer; (2) the direct deposit refund was not returned to the
29 Franchise Tax Board; and (3) the refund was deposited directly
30 on a specified date into the account of an accountholder of the
31 financial institution who was not entitled to receive the refund,
32 then the financial institution shall furnish to the Franchise Tax
33 Board the name and address of any coowner, cosigner, or any other
34 person who had access to the funds in the account following the
35 date of direct deposit refund, or if the account has been closed, the
36 name and address of the person who closed the account.

37 SEC. 39. Chapter 9.7 (commencing with Section 8790) of
38 Division 1 of Title 2 of the Government Code is repealed.

1 SEC. 40. The heading of Part 4.5 (commencing with Section
2 13975) of Division 3 of Title 2 of the Government Code is amended
3 to read:

4

5 PART 4.5. BUSINESS, TRANSPORTATION AND HOUSING
6 AGENCY
7

8 SEC. 41. Section 13975.1 of the Government Code is amended
9 and renumbered to read:

10 13975.1.

11 12896. (a) This section applies to every action brought in the
12 name of the people of the State of California by the Commissioner
13 of Business Oversight before, on, or after the effective date of this
14 section, when enforcing provisions of those laws administered by
15 the Commissioner of Business Oversight which authorize the
16 Commissioner of Business Oversight to seek a permanent or
17 preliminary injunction, restraining order, or writ of mandate, or
18 the appointment of a receiver, monitor, conservator, or other
19 designated fiduciary or officer of the court, except actions brought
20 against any of the licensees specified in subparagraphs (1) through
21 (8), inclusive, of subdivision (b) of Section 300 of the Financial
22 Code that are governed by other law. Upon a proper showing, a
23 permanent or preliminary injunction, restraining order, or writ of
24 mandate shall be granted and a receiver, monitor, conservator, or
25 other designated fiduciary or officer of the court may be appointed
26 for the defendant or the defendant’s assets, or any other ancillary
27 relief may be granted as appropriate. The court may order that the
28 expenses and fees of the receiver, monitor, conservator, or other
29 designated fiduciary or officer of the court, be paid from the
30 property held by the receiver, monitor, conservator, or other court
31 designated fiduciary or officer, but neither the state, the Business,
32 Consumer Services, and Housing Agency, nor the Department of
33 Business Oversight shall be liable for any of those expenses and
34 fees, unless expressly provided for by written contract.

35 (b) The receiver, monitor, conservator, or other designated
36 fiduciary or officer of the court may do any of the following subject
37 to the direction of the court:

38 (1) Sue for, collect, receive, and take into possession all the real
39 and personal property derived by any unlawful means, including
40 property with which that property or the proceeds thereof has been

1 commingled if that property or the proceeds thereof cannot be
2 identified in kind because of the commingling.

3 (2) Take possession of all books, records, and documents
4 relating to any unlawfully obtained property and the proceeds
5 thereof. In addition, they shall have the same right as a defendant
6 to request, obtain, inspect, copy, and obtain copies of books,
7 records, and documents maintained by third parties that relate to
8 unlawfully obtained property and the proceeds thereof.

9 (3) Transfer, encumber, manage, control, and hold all property
10 subject to the receivership, including the proceeds thereof, in the
11 manner directed or ratified by the court.

12 (4) Avoid a transfer of any interest in any unlawfully obtained
13 property including the proceeds thereof to any person who
14 committed, aided or abetted, or participated in the commission of
15 unlawful acts or who had knowledge that the property had been
16 unlawfully obtained.

17 (5) Avoid a transfer of any interest in any unlawfully obtained
18 property including the proceeds thereof made with the intent to
19 hinder or delay the recovery of that property or any interest in it
20 by the receiver or any person from whom the property was
21 unlawfully obtained.

22 (6) Avoid a transfer of any interest in any unlawfully obtained
23 property including the proceeds thereof that was made within one
24 year before the date of the entry of the receivership order if less
25 than a reasonably equivalent value was given in exchange for the
26 transfer, except that a bona fide transferee for value and without
27 notice that the property had been unlawfully obtained may retain
28 the interest transferred until the value given in exchange for the
29 transfer is returned to the transferee.

30 (7) Avoid a transfer of any interest in any unlawfully obtained
31 property including the proceeds thereof made within 90 days before
32 the date of the entry of the receivership order to a transferee from
33 whom the defendant unlawfully obtained some property if (A) the
34 receiver establishes that the avoidance of the transfer will promote
35 a fair pro rata distribution of restitution among all people from
36 whom defendants unlawfully obtained property and (B) the
37 transferee cannot establish that the specific property transferred
38 was the same property which had been unlawfully obtained from
39 the transferee.

1 (8) Exercise any power authorized by statute or ordered by the
2 court.

3 (c) No person with actual or constructive notice of the
4 receivership shall interfere with the discharge of the receiver's
5 duties.

6 (d) No person may file any action or enforce or create any lien,
7 or cause to be issued, served, or levied any summons, subpoena,
8 attachment, or writ of execution against the receiver or any property
9 subject to the receivership without first obtaining prior court
10 approval upon motion with notice to the receiver and the
11 Commissioner of Business Oversight. Any legal procedure
12 described in this subdivision commenced without prior court
13 approval is void except as to a bona fide purchaser or encumbrancer
14 for value and without notice of the receivership. No person without
15 notice of the receivership shall incur any liability for commencing
16 or maintaining any legal procedure described by this subdivision.

17 (e) The court has jurisdiction of all questions arising in the
18 receivership proceedings and may make any orders and judgments
19 as may be required, including orders after noticed motion by the
20 receiver to avoid transfers as provided in paragraphs (4), (5), (6),
21 and (7) of subdivision (b).

22 (f) This section is cumulative to all other provisions of law.

23 (g) If any provision of this section or the application thereof to
24 any person or circumstances is held invalid, that invalidity shall
25 not affect other provisions or applications of this section which
26 can be given effect without the invalid provision or application,
27 and to this end the provisions of this section are severable.

28 (h) The recordation of a copy of the receivership order imparts
29 constructive notice of the receivership in connection with any
30 matter involving real property located in the county in which the
31 receivership order is recorded.

32 SEC. 42. Section 13975.2 of the Government Code is amended
33 to read:

34 13975.2. (a) This section applies to every action brought in
35 the name of the people of the State of California by the Director
36 of the Department of Managed Health Care before, on, or after the
37 effective date of this section, when enforcing provisions of those
38 laws administered by the Director of the Department of Managed
39 Health Care which authorize the Director of Managed Health Care
40 to seek a permanent or preliminary injunction, restraining order,

1 or writ of mandate, or the appointment of a receiver, monitor,
2 conservator, or other designated fiduciary or officer of the court.
3 Upon a proper showing, a permanent or preliminary injunction,
4 restraining order, or writ of mandate shall be granted and a receiver,
5 monitor, conservator, or other designated fiduciary or officer of
6 the court may be appointed for the defendant or the defendant's
7 assets, or any other ancillary relief may be granted as appropriate.
8 The court may order that the expenses and fees of the receiver,
9 monitor, conservator, or other designated fiduciary or officer of
10 the court, be paid from the property held by the receiver, monitor,
11 conservator, or other court designated fiduciary or officer, but
12 neither the state, the ~~Business, Transportation and Housing Agency,~~
13 *Health and Human Services Agency*, nor the Department of
14 Managed Health Care shall be liable for any of those expenses and
15 fees, unless expressly provided for by written contract.

16 (b) The receiver, monitor, conservator, or other designated
17 fiduciary or officer of the court may do any of the following subject
18 to the direction of the court:

19 (1) Sue for, collect, receive, and take into possession all the real
20 and personal property derived by any unlawful means, including
21 property with which that property or the proceeds thereof has been
22 commingled if that property or the proceeds thereof cannot be
23 identified in kind because of the commingling.

24 (2) Take possession of all books, records, and documents
25 relating to any unlawfully obtained property and the proceeds
26 thereof. In addition, they shall have the same right as a defendant
27 to request, obtain, inspect, copy, and obtain copies of books,
28 records, and documents maintained by third parties that relate to
29 unlawfully obtained property and the proceeds thereof.

30 (3) Transfer, encumber, manage, control, and hold all property
31 subject to the receivership, including the proceeds thereof, in the
32 manner directed or ratified by the court.

33 (4) Avoid a transfer of any interest in any unlawfully obtained
34 property including the proceeds thereof to any person who
35 committed, aided or abetted, or participated in the commission of
36 unlawful acts or who had knowledge that the property had been
37 unlawfully obtained.

38 (5) Avoid a transfer of any interest in any unlawfully obtained
39 property including the proceeds thereof made with the intent to
40 hinder or delay the recovery of that property or any interest in it

1 by the receiver or any person from whom the property was
2 unlawfully obtained.

3 (6) Avoid a transfer of any interest in any unlawfully obtained
4 property including the proceeds thereof that was made within one
5 year before the date of the entry of the receivership order if less
6 than a reasonably equivalent value was given in exchange for the
7 transfer, except that a bona fide transferee for value and without
8 notice that the property had been unlawfully obtained may retain
9 the interest transferred until the value given in exchange for the
10 transfer is returned to the transferee.

11 (7) Avoid a transfer of any interest in any unlawfully obtained
12 property including the proceeds thereof made within 90 days before
13 the date of the entry of the receivership order to a transferee from
14 whom the defendant unlawfully obtained some property if (A) the
15 receiver establishes that the avoidance of the transfer will promote
16 a fair pro rata distribution of restitution among all people from
17 whom defendants unlawfully obtained property and (B) the
18 transferee cannot establish that the specific property transferred
19 was the same property that had been unlawfully obtained from the
20 transferee.

21 (8) Exercise any power authorized by statute or ordered by the
22 court.

23 (c) No person with actual or constructive notice of the
24 receivership shall interfere with the discharge of the receiver's
25 duties.

26 (d) No person may file any action or enforce or create any lien,
27 or cause to be issued, served, or levied any summons, subpoena,
28 attachment, or writ of execution against the receiver or any property
29 subject to the receivership without first obtaining prior court
30 approval upon motion with notice to the receiver and the Director
31 of the Department of Managed Health Care. Any legal procedure
32 described in this subdivision commenced without prior court
33 approval is void except as to a bona fide purchaser or encumbrancer
34 for value and without notice of the receivership. No person without
35 notice of the receivership shall incur any liability for commencing
36 or maintaining any legal procedure described by this subdivision.

37 (e) The court shall have jurisdiction of all questions arising in
38 the receivership proceedings and may make any orders and
39 judgments as may be required, including orders after noticed

1 motion by the receiver to avoid transfers as provided in paragraphs
2 (4), (5), (6), and (7) of subdivision (b).

3 (f) This section is cumulative to all other provisions of law.

4 (g) If any provision of this section or the application thereof to
5 any person or circumstances is held invalid, that invalidity shall
6 not affect other provisions or applications of this section that can
7 be given effect without the invalid provision or application, and
8 to this end the provisions of this section are severable.

9 (h) The recordation of a copy of the receivership order imparts
10 constructive notice of the receivership in connection with any
11 matter involving real property located in the county in which the
12 receivership order is recorded.

13 SEC. 43. Section 13978.6 of the Government Code is amended
14 and renumbered to read:

15 ~~13978.6.~~

16 12895. (a) There is in the Business, Consumer Services, and
17 Housing Agency a Department of Business Oversight containing
18 the Division of Corporations, which has the responsibility for
19 administering various laws. In order to effectively support the
20 Division of Corporations in the administration of these laws, there
21 is hereby established the State Corporations Fund. All expenses
22 and salaries of the Division of Corporations shall be paid out of
23 the State Corporations Fund. Therefore, notwithstanding any
24 provision of any law administered by the Division of Corporations
25 declaring that fees, reimbursements, assessments, or other money
26 or amounts charged and collected by the Division of Corporations
27 under these laws are to be delivered or transmitted to the Treasurer
28 and deposited to the credit of the General Fund, all fees,
29 reimbursements, assessments, and other money or amounts charged
30 and collected under these laws shall be delivered or transmitted to
31 the Treasurer and deposited to the credit of the State Corporations
32 Fund.

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

36 (1) Fees and any other amounts charged and collected pursuant
37 to Section 25608 of the Corporations Code, except for fees and
38 other amounts charged and collected pursuant to subdivisions (o)
39 to (r), inclusive, of Section 25608 of the Corporations Code.

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

3 SEC. 44. Section 13995.40.5 of the Government Code is
4 amended to read:

5 13995.40.5. (a) Notwithstanding subdivision (d) of Section
6 13995.40, the number of commissioners elected from each industry
7 category shall be determined by the weighted percentage of
8 assessments from that category, except that no more than six
9 commissioners shall be elected from the passenger car rental
10 category.

11 ~~(b) This section shall become operative only if the Secretary of~~
12 ~~Business, Transportation and Housing provides notice to the~~
13 ~~Legislature and the Secretary of State and posts notice on its~~
14 ~~Internet Web site that the conditions described in Section 13995.92~~
15 ~~have been satisfied.~~

16 SEC. 45. Chapter 5 (commencing with Section 13999) of Part
17 4.7 of Division 3 of Title 2 of the Government Code is repealed.

18 SEC. 46. Section 51298 of the Government Code is amended
19 to read:

20 51298. It is the intent of the Legislature in enacting this chapter
21 to provide local governments with opportunities to attract large
22 manufacturing facilities to invest in their communities and to
23 encourage industries, such as high technology, aerospace,
24 automotive, biotechnology, software, environmental sources, and
25 others, to locate and invest in those facilities in California.

26 (a) Commencing in the 1998–99 fiscal year, the governing body
27 of a county, city and county, or city, may, by means of an ordinance
28 or resolution approved by a majority of its entire membership,
29 elect to establish a capital investment incentive program. In any
30 county, city and county, or city in which the governing body has
31 so elected, the county, city and county, or city shall, upon the
32 approval by a majority of the entire membership of its governing
33 body of a written request therefor, pay a capital investment
34 incentive amount to the proponent of a qualified manufacturing
35 facility for up to 15 consecutive fiscal years. A request for the
36 payment of capital investment incentive amounts shall be filed by
37 a proponent in writing with the governing body of an electing
38 county, city and county, or city in the time and manner specified
39 in procedures adopted by that governing body. In the case in which
40 the governing body of an electing county, city and county, or city

1 approves a request for the payment of capital investment incentive
2 amounts, both of the following conditions shall apply:

3 (1) The consecutive fiscal years during which a capital
4 investment incentive amount is to be paid shall commence with
5 the first fiscal year commencing after the date upon which the
6 qualified manufacturing facility is certified for occupancy or, if
7 no certification is issued, the first fiscal year commencing after
8 the date upon which the qualified manufacturing facility
9 commences operation.

10 (2) In accordance with paragraph (4) of subdivision (d), the
11 annual payment to a proponent of each capital investment incentive
12 amount shall be contingent upon the proponent's payment of a
13 community services fee.

14 (b) For purposes of this section:

15 (1) "Qualified manufacturing facility" means a proposed
16 manufacturing facility that meets all of the following criteria:

17 (A) The proponent's initial investment in that facility, in real
18 and personal property, necessary for the full and normal operation
19 of that facility, made pursuant to the capital investment incentive
20 program, that comprises any portion of that facility or has its situs
21 at that facility, exceeds one hundred fifty million dollars
22 (\$150,000,000). Compliance with this subparagraph shall be
23 certified by the ~~Business, Transportation and Housing Agency~~
24 *Governor's Office of Business and Economic Development* upon
25 the agency's approval of a proponent's application for certification
26 of a qualified manufacturing facility. An application for
27 certification shall be submitted by a proponent to the agency in
28 writing in the time and manner as specified by the agency.

29 (B) The facility is to be located within the jurisdiction of the
30 electing county, city and county, or city to which the request is
31 made for payment of capital investment incentive amounts.

32 (C) The facility is operated by any of the following:

33 (i) A business described in Codes 3500 to 3899, inclusive, of
34 the Standard Industrial Classification (SIC) Manual published by
35 the United States Office of Management and Budget, 1987 edition,
36 except that "January 1, 1997," shall be substituted for "January 1,
37 1994," in each place in which it appears.

38 (ii) A business engaged in the recovery of minerals from
39 geothermal resources, including the proportional amount of a

1 geothermal electric generating plant that is integral to the recovery
2 process by providing electricity for it.

3 (iii) A business engaged in the manufacturing of parts or
4 components related to the production of electricity using solar,
5 wind, biomass, hydropower, or geothermal resources on or after
6 July 1, 2010.

7 (D) The proponent is either currently engaged in commercial
8 production or engaged in the perfection of the manufacturing
9 process, or the perfection of a product intended to be manufactured.

10 (2) “Proponent” means a party or parties that meet all of the
11 following criteria:

12 (A) The party is named in the application to the county, city
13 and county, or city within which the qualified manufacturing
14 facility would be located for a permit to construct a qualified
15 manufacturing facility.

16 (B) The party will be the fee owner of the qualified
17 manufacturing facility upon the completion of that facility.
18 Notwithstanding the previous sentence, the party may enter into
19 a sale-leaseback transaction and nevertheless be considered the
20 proponent.

21 (C) If a proponent that is receiving capital investment incentive
22 amounts subsequently leases the subject qualified manufacturing
23 facility to another party, the lease may provide for the payment to
24 that lessee of any portion of a capital investment incentive amount.
25 Any lessee receiving any portion of a capital investment incentive
26 amount shall also be considered a proponent for the purposes of
27 subdivision (d).

28 (3) “Capital investment incentive amount” means, with respect
29 to a qualified manufacturing facility for a relevant fiscal year, an
30 amount up to or equal to the amount of ad valorem property tax
31 revenue derived by the participating local agency from the taxation
32 of that portion of the total assessed value of that real and personal
33 property described in subparagraph (A) of paragraph (1) that is in
34 excess of one hundred fifty million dollars (\$150,000,000).

35 (4) “Manufacturing” means the activity of converting or
36 conditioning property by changing the form, composition, quality,
37 or character of the property for ultimate sale at retail or use in the
38 manufacturing of a product to be ultimately sold at retail.
39 Manufacturing includes any improvements to tangible personal

1 property that result in a greater service life or greater functionality
2 than that of the original property.

3 (c) A city or special district may, upon the approval by a
4 majority of the entire membership of its governing body, pay to
5 the county, city and county, or city an amount equal to the amount
6 of ad valorem property tax revenue allocated to that city or special
7 district, but not the actual allocation, derived from the taxation of
8 that portion of the total assessed value of that real and personal
9 property described in subparagraph (A) of paragraph (1) of
10 subdivision (b) that is in excess of one hundred fifty million dollars
11 (\$150,000,000).

12 (d) A proponent whose request for the payment of capital
13 investment incentive amounts is approved by an electing county,
14 city and county, or city shall enter into a community services
15 agreement with that county, city and county, or city that includes,
16 but is not limited to, all of the following provisions:

17 (1) A provision requiring that a community services fee be
18 remitted by the proponent to the county, city and county, or city,
19 in each fiscal year subject to the agreement, in an amount that is
20 equal to 25 percent of the capital investment incentive amount
21 calculated for that proponent for that fiscal year, except that in no
22 fiscal year shall the amount of the community services fee exceed
23 two million dollars (\$2,000,000).

24 (2) A provision specifying the dates in each relevant fiscal year
25 upon which payment of the community services fee is due and
26 delinquent, and the rate of interest to be charged to a proponent
27 for any delinquent portion of the community services fee amount.

28 (3) A provision specifying the procedures and rules for the
29 determination of underpayments or overpayments of a community
30 services fee, for the appeal of determinations of any underpayment,
31 and for the refunding or crediting of any overpayment.

32 (4) A provision specifying that a proponent is ineligible to
33 receive a capital investment incentive amount if that proponent is
34 currently delinquent in the payment of any portion of a community
35 services fee amount, if the qualified manufacturing facility is
36 constructed in a manner materially different from the facility as
37 described in building permit application materials, or if the facility
38 is no longer operated as a qualified manufacturing facility meeting
39 the requirements of paragraph (1) of subdivision (b). If a proponent
40 becomes ineligible to receive a capital investment incentive amount

1 as a result of an agreement provision included pursuant to this
2 subparagraph, the running of the number of consecutive fiscal
3 years specified in an agreement made pursuant to subdivision (a)
4 is not tolled during the period in which the proponent is ineligible.

5 (5) A provision that sets forth a job creation plan with respect
6 to the relevant qualified manufacturing facility. The plan shall
7 specify the number of jobs to be created by that facility, and the
8 types of jobs and compensation ranges to be created thereby. The
9 plan shall also specify that for the entire term of the community
10 services agreement, both of the following shall apply:

11 (A) All of the employees working at the qualified manufacturing
12 facility shall be covered by an employer-sponsored health benefits
13 plan.

14 (B) The average weekly wage, exclusive of overtime, paid to
15 all of the employees working at the qualified manufacturing
16 facility, who are not management or supervisory employees, shall
17 be not less than the state average weekly wage.

18 For the purpose of this subdivision, “state average weekly wage”
19 means the average weekly wage paid by employers to employees
20 covered by unemployment insurance, as reported to the
21 Employment Development Department for the four calendar
22 quarters ending June 30 of the preceding calendar year.

23 (6) (A) In the case in which the proponent fails to operate the
24 qualified manufacturing facility as required by the community
25 services agreement, a provision that requires the recapture of any
26 portion of any capital investment incentive amounts previously
27 paid to the proponent equal to the lesser of the following:

28 (i) All of the capital investment incentive amounts paid to the
29 proponent, less all of the community services fees received from
30 the proponent, and less any capital investment incentive amounts
31 previously recaptured.

32 (ii) The last capital investment incentive amount paid to the
33 proponent, less the last community services fee received from the
34 proponent, multiplied by 40 percent of the number of years
35 remaining in the community services agreement, but not to exceed
36 10 years, and less any capital investment incentive amounts
37 previously recaptured.

38 (B) If the proponent fails to operate the qualified manufacturing
39 facility as required by the community services agreement, the
40 county, city and county, or city may, upon a finding that good

1 cause exists, waive any portion of the recapture of any capital
2 investment incentive amount due under this subdivision. For the
3 purpose of this subdivision, good cause includes, but is not limited
4 to, the following:

5 (i) The proponent has sold or leased the property to a person
6 who has entered into an agreement with the county, city and
7 county, or city to assume all of the responsibilities of the proponent
8 under the community services agreement.

9 (ii) The qualified manufacturing facility has been rendered
10 inoperable and beyond repair as a result of an act of God.

11 (C) For purposes of this subdivision, failure to operate a
12 qualified manufacturing facility as required by the community
13 services agreement includes, but is not limited to, failure to
14 establish the number of jobs specified in the jobs creation plan
15 created pursuant to paragraph (5).

16 (e) (1) Each county, city and county, or city that elects to
17 establish a capital investment incentive program shall notify the
18 ~~Business, Transportation and Housing Agency~~ *Governor's Office*
19 *of Business and Economic Development* of its election to do so no
20 later than June 30th of the fiscal year in which the election was
21 made.

22 (2) In addition to the information required to be reported
23 pursuant to paragraph (1), each county, city and county, or city
24 that has elected to establish a capital investment incentive program
25 shall notify the ~~Business, Transportation and Housing Agency~~
26 *Governor's Office of Business and Economic Development* each
27 fiscal year no later than June 30th of the amount of any capital
28 investment incentive payments made and the proponent of the
29 qualified manufacturing facility to whom the payments were made
30 during that fiscal year.

31 (3) The ~~Business, Transportation and Housing Agency~~
32 *Governor's Office of Business and Economic Development* shall
33 compile the information submitted by each county, city and county,
34 and city pursuant to paragraphs (1) and (2) and submit a report to
35 the Legislature containing this information no later than October
36 1, every two years commencing October 1, 2000.

37 ~~(f) This section shall become operative on July 1, 2013.~~

38 SEC. 47. Section 65040.9 of the Government Code is amended
39 to read:

1 65040.9. (a) On or before January 1, 2004, the Office of
2 Planning and Research shall, if sufficient federal funds become
3 available for this purpose, prepare and publish an advisory planning
4 handbook for use by local officials, planners, and builders that
5 explains how to reduce land use conflicts between the effects of
6 civilian development and military readiness activities carried out
7 on military installations, military operating areas, military training
8 areas, military training routes, and military airspace, and other
9 territory adjacent to those installations and areas.

10 (b) At a minimum, the advisory planning handbook shall include
11 advice regarding all of the following:

12 (1) The collection and preparation of data and analysis.

13 (2) The preparation and adoption of goals, policies, and
14 standards.

15 (3) The adoption and monitoring of feasible implementation
16 measures.

17 (4) Methods to resolve conflicts between civilian and military
18 land uses and activities.

19 (5) Recommendations for cities and counties to provide drafts
20 of general plan and zoning changes that may directly impact
21 military facilities, and opportunities to consult with the military
22 base personnel prior to approving development adjacent to military
23 facilities.

24 (c) In preparing the advisory planning handbook, the office shall
25 ~~collaborate with the Office of Military Base Retention and Reuse~~
26 ~~and the Business, Transportation and Housing Agency. The office~~
27 ~~shall~~ consult with persons and organizations with knowledge and
28 experience in land use issues affecting military installations and
29 activities.

30 (d) The office may accept and expend any grants and gifts from
31 any source, public or private, for the purposes of this section.

32 SEC. 48. Section 66620 of the Government Code is amended
33 to read:

34 66620. The San Francisco Bay Conservation and Development
35 Commission is hereby created. The commission shall consist of
36 27 members, as follows:

37 (a) One member appointed by the Division Engineer, United
38 States Army Engineers, South Pacific Division, from his or her
39 staff.

1 (b) One member appointed by the Administrator of the United
2 States Environmental Protection Agency, from his or her staff.

3 (c) One member appointed by the Secretary of ~~Business and~~
4 ~~Transportation~~, *Transportation* from his or her staff.

5 (d) One member appointed by the Director of Finance, from his
6 or her staff.

7 (e) One member appointed by the Secretary of Resources, from
8 his or her staff.

9 (f) One member appointed by the State Lands Commission,
10 who shall be a member of that commission or from its staff.

11 (g) One member appointed by the San Francisco Bay Regional
12 Water Quality Control Board, who shall be a member of that board.

13 (h) Nine county representatives consisting of one member of
14 the board of supervisors representative of each of the nine San
15 Francisco Bay area counties, appointed by the board of supervisors
16 in each county. Each county representative shall be a supervisor
17 representing a supervisorial district which includes within its
18 boundaries lands lying within San Francisco Bay.

19 (i) Four city representatives appointed by the Association of
20 Bay Area Governments from among the residents of the bayside
21 cities in each of the following areas:

22 (1) North Bay—Marin, Sonoma, Napa, and Solano Counties;

23 (2) East Bay—Contra Costa County (west of Pittsburg) and
24 Alameda County north of the southern boundary of Hayward;

25 (3) South Bay—Alameda County south of the southern
26 boundary of Hayward, Santa Clara County, and San Mateo
27 County south of the northern boundary of Redwood City;

28 (4) West Bay—San Mateo County north of the northern
29 boundary of Redwood City, and the City and County of San
30 Francisco.

31 Each city representative shall be an elected city official.

32 (j) Seven representatives of the public, who shall be residents
33 of the San Francisco Bay area. Five of the representatives shall be
34 appointed by the Governor and their appointments shall be subject
35 to confirmation by the Senate. One of the representatives shall be
36 appointed by the Committee on Rules of the Senate, and one by
37 the Speaker of the Assembly.

38 SEC. 49. Section 44272.5 of the Health and Safety Code is
39 amended to read:

1 44272.5. (a) The commission shall develop and adopt an
2 investment plan to determine priorities and opportunities for the
3 Alternative and Renewable Fuel and Vehicle Technology Program
4 created pursuant to this chapter. The investment plan shall establish
5 priorities for investment of funds and technologies to achieve the
6 goals of this chapter and describe how funding will complement
7 existing public and private investments, including existing state
8 programs that further the goals of this chapter. The commission
9 shall create and consult with an advisory body as it develops the
10 investment plan. The advisory body is subject to the Bagley-Keene
11 Open Meeting Act (Article 9 (commencing with Section 11120)
12 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
13 Code). The commission shall, at a minimum, hold one public
14 hearing on the advisory body's recommendations prior to approving
15 the investment plan.

16 (b) Membership of the advisory body created pursuant to
17 subdivision (a) shall include, but is not limited to, representatives
18 of fuel and vehicle technology entities, labor organizations,
19 environmental organizations, community-based justice and public
20 health organizations, recreational boaters, consumer advocates,
21 academic institutions, workforce training groups, and private
22 industry. The advisory body shall also include representatives from
23 the Resources Agency, the ~~Business, Transportation and Housing~~
24 ~~Agency, Transportation Agency,~~ the Labor and Workforce
25 Development Agency, and the California Environmental Protection
26 Agency.

27 (c) The commission shall hold at least three public workshops
28 in different regions of the state and one public hearing prior to
29 approving the investment plan. The commission shall annually
30 update and approve the plan. The commission shall reconvene and
31 consult with the advisory body created pursuant to subdivision (a)
32 prior to annually updating and approving the plan.

33 SEC. 50. Section 12414.31 of the Insurance Code is amended
34 to read:

35 12414.31. (a) (1) Whenever the commissioner takes any
36 formal enforcement or disciplinary action directly against an
37 employee of a title insurer, underwritten title company, or
38 controlled escrow company, for malfeasance or misconduct
39 committed by the employee in his or her performance of escrow
40 related services, upon the action becoming final the commissioner

1 shall notify the Real Estate Commissioner and the Commissioner
2 of ~~Corporations~~ *Business Oversight* of the action or actions taken.
3 The purpose of this notification is to alert the departments that
4 enforcement or disciplinary action has been taken, if the employee
5 seeks or obtains employment with entities regulated by the
6 departments.

7 (2) The commissioner shall provide the Real Estate
8 Commissioner and the Commissioner of ~~Corporations~~, *Business*
9 *Oversight*, in addition to the notification of the action taken, with
10 a copy of the written accusation, statement of issues, or order issued
11 or filed in the matter and, at the request of the Real Estate
12 Commissioner or Commissioner of ~~Corporations~~, *Business*
13 *Oversight*, with any underlying factual material relevant to the
14 enforcement or disciplinary action. Any confidential information
15 provided by the commissioner to the Commissioner of ~~Corporations~~
16 *Business Oversight* or the Real Estate Commissioner shall not be
17 made public pursuant to this section. Notwithstanding any other
18 ~~provision of law~~, the disclosure of any underlying factual material
19 to the Commissioner of ~~Corporations~~ *Business Oversight* or the
20 Real Estate Commissioner shall not operate as a waiver of
21 confidentiality or any privilege that the commissioner may assert.

22 (b) The commissioner shall establish and maintain, on the Web
23 site maintained by the Department of Insurance, a separate and
24 readily identifiable database of all persons who have been subject
25 to any enforcement or disciplinary action that triggers the
26 notification requirements of this section. The database shall also
27 contain a direct link to the databases, described in Section 10176.1
28 of the Business and Professions Code and Section 17423.1 of the
29 Financial Code and required to be maintained on the Web sites of
30 the Bureau of Real Estate and the Department of ~~Corporations~~,
31 *Business Oversight*, respectively, of persons who have been subject
32 to enforcement or disciplinary action for malfeasance or
33 misconduct related to the escrow industry by the Commissioner
34 of ~~Corporations~~ *Business Oversight* and the Real Estate
35 Commissioner.

36 (c) There shall be no liability on the part of, and no cause of
37 action of any nature shall arise against, the State of California, the
38 Department of Insurance, the Insurance Commissioner, any other
39 state agency, or any officer, agent, employee, consultant, or
40 contractor of the state, for the release of any false or unauthorized

1 information pursuant to this section, unless the release of that
 2 information was done with knowledge and malice, or for the failure
 3 to release any information pursuant to this section.

4 SEC. 51. Section 12710 of the Insurance Code is amended to
 5 read:

6 12710. The California Major Risk Medical Insurance Program
 7 is hereby created in the Health and Welfare Agency. The program
 8 shall be managed by the Major Risk Medical Insurance Board.
 9 The board shall consist of seven members, five of whom shall be
 10 appointed as follows:

11 The Governor shall appoint three members, subject to
 12 confirmation by the Senate, and shall designate one of these
 13 appointees as chair of the board. The Senate Committee on Rules
 14 shall appoint one member. The Speaker of the Assembly shall
 15 appoint one member. The terms of appointment shall be four years.

16 ~~The Secretary of Business, Transportation and Housing, or his~~
 17 ~~or her designee, and the Secretary of California Health and Welfare~~
 18 *Human Services*, or his or her designee, shall serve on the board
 19 as ex officio, nonvoting members.

20 The board shall appoint an executive director for the board, who
 21 shall serve at the pleasure of the board. The executive director
 22 shall receive the salary established by the Department of Human
 23 Resources for exempt officials. The executive director shall
 24 administer the affairs of the board as directed by the board, and
 25 shall direct the staff of the board. The executive director may
 26 appoint, with the approval of the board, staff necessary to carry
 27 out the provisions of this part.

28 SEC. 52. Section 2802 of the Penal Code is amended to read:

29 2802. Commencing July 1, 2005, there is hereby continued in
 30 existence within the Department of Corrections and Rehabilitation
 31 a Prison Industry Board. The board shall consist of the following
 32 11 members:

33 (a) The Secretary of the Department of Corrections and
 34 Rehabilitation, or his or her designee.

35 (b) The Director of the Department of General Services, or his
 36 or her designee.

37 (c) ~~The Secretary of Business, Transportation and Housing,~~
 38 *Transportation*, or his or her designee.

39 (d) The Speaker of the Assembly shall appoint two members
 40 to represent the general public.

1 (e) The Senate Committee on Rules shall appoint two members
2 to represent the general public.

3 (f) The Governor shall appoint four members. Of these, two
4 shall be representatives of organized labor, and two shall be
5 representatives of industry. The initial term of one of the members
6 appointed by the Speaker of the Assembly shall be two years, and
7 the initial term of the other shall be three years. The initial term
8 of one of the members appointed by the Senate Committee on
9 Rules shall be two years, and the initial term of the other shall be
10 three years. The initial terms of the four members appointed by
11 the Governor shall be four years. All subsequent terms of all
12 members shall be for four years. Each member's term shall
13 continue until the appointment and qualification of his or her
14 successor.

15 SEC. 53. Section 22003 of the Public Utilities Code is amended
16 to read:

17 22003. (a) Unless the context otherwise requires, the
18 definitions and general provisions contained in this chapter govern
19 the construction of this part.

20 (b) ~~“Spaceport” and associated terms contained in this part shall~~
21 ~~be defined pursuant to Section 13999.1 of the Government Code.~~

22 SEC. 54. Section 22553.2 of the Public Utilities Code is
23 repealed.

24 ~~22553.2. No district may exercise any of the authority granted~~
25 ~~under this part for the development of spaceports unless it has been~~
26 ~~designated as a spaceport pursuant to Section 13999.3 of the~~
27 ~~Government Code.~~

O