

AMENDED IN SENATE AUGUST 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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

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

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

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

20 19869. A request for withdrawal of any application may be
21 made at any time prior to final action upon the application by the
22 chief by the filing of a written request to withdraw with the
23 department. For the purposes of this section, final action by the
24 department means a final determination by the chief regarding his
25 or her recommendation on the application to the commission. The
26 commission shall not grant the request unless the applicant has
27 established that withdrawal of the application would be consistent
28 with the public interest and the policies of this chapter. If a request
29 for withdrawal is denied, the department may go forward with its
30 investigation and make a recommendation to the commission upon
31 the application, and the commission may act upon the application
32 as if no request for withdrawal had been made. If a request for
33 withdrawal is granted with prejudice, the applicant thereafter shall
34 be ineligible to renew its application until the expiration of one
35 year from the date of the withdrawal. Unless the commission
36 otherwise directs, no fee or other payment relating to any
37 application is refundable by reason of withdrawal of an 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 SEC. 4. Section 2924.12 of the Civil Code, as added by Section
24 16 of Chapter 86 of the Statutes of 2012, is amended to read:

25 2924.12. (a) (1) If a trustee's deed upon sale has not been
26 recorded, a borrower may bring an action for injunctive relief to
27 enjoin a material violation of Section 2923.55, 2923.6, 2923.7,
28 2924.9, 2924.10, 2924.11, or 2924.17.

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

36 (b) After a trustee's deed upon sale has been recorded, a
37 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
38 agent shall be liable to a borrower for actual economic damages
39 pursuant to Section 3281, resulting from a material violation of
40 Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or

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

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

15 (d) A violation of Section 2923.55, 2923.6, 2923.7, 2924.9,
16 2924.10, 2924.11, or 2924.17 by a person licensed by the
17 Department of Business Oversight or the Bureau of Real Estate
18 shall be deemed to be a violation of that person's licensing law.

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

22 (f) A third-party encumbrancer shall not be relieved of liability
23 resulting from violations of Section 2923.55, 2923.6, 2923.7,
24 2924.9, 2924.10, 2924.11, or 2924.17 committed by that third-party
25 encumbrancer, that occurred prior to the sale of the subject property
26 to the bona fide purchaser.

27 (g) A signatory to a consent judgment entered in the case entitled
28 United States of America et al. v. Bank of America Corporation
29 et al., filed in the United States District Court for the District of
30 Columbia, case number 1:12-cv-00361 RMC, that is in compliance
31 with the relevant terms of the Settlement Term Sheet of that
32 consent judgment with respect to the borrower who brought an
33 action pursuant to this section while the consent judgment is in
34 effect shall have no liability for a violation of Section 2923.55,
35 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or 2924.17.

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

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

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

8 (k) This section shall remain in effect only until January 1,
 9 2018, and as of that date is repealed, unless a later enacted statute,
 10 that is enacted before January 1, 2018, deletes or extends that date.

11 SEC. 5. Section 2924.12 of the Civil Code, as added by Section
 12 16 of Chapter 87 of the Statutes of 2012, is amended to read:

13 2924.12. (a) (1) If a trustee’s deed upon sale has not been
 14 recorded, a borrower may bring an action for injunctive relief to
 15 enjoin a material violation of Section 2923.55, 2923.6, 2923.7,
 16 2924.9, 2924.10, 2924.11, or 2924.17.

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

24 (b) After a trustee’s deed upon sale has been recorded, a
 25 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
 26 agent shall be liable to a borrower for actual economic damages
 27 pursuant to Section 3281, resulting from a material violation of
 28 Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or
 29 2924.17 by that mortgage servicer, mortgagee, trustee, beneficiary,
 30 or authorized agent where the violation was not corrected and
 31 remedied prior to the recordation of the trustee’s deed upon sale.
 32 If the court finds that the material violation was intentional or
 33 reckless, or resulted from willful misconduct by a mortgage
 34 servicer, mortgagee, trustee, beneficiary, or authorized agent, the
 35 court may award the borrower the greater of treble actual damages
 36 or statutory damages of fifty thousand dollars (\$50,000).

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

1 working on its behalf prior to the recordation of a trustee’s deed
2 upon sale.

3 (d) A violation of Section 2923.55, 2923.6, 2923.7, 2924.9,
4 2924.10, 2924.11, or 2924.17 by a person licensed by the
5 Department of Business Oversight or the Bureau of Real Estate
6 shall be deemed to be a violation of that person’s licensing law.

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

10 (f) A third-party encumbrancer shall not be relieved of liability
11 resulting from violations of Section 2923.55, 2923.6, 2923.7,
12 2924.9, 2924.10, 2924.11, or 2924.17 committed by that third-party
13 encumbrancer, that occurred prior to the sale of the subject property
14 to the bona fide purchaser.

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

24 (h) The rights, remedies, and procedures provided by this section
25 are in addition to and independent of any other rights, remedies,
26 or procedures under any other law. Nothing in this section shall
27 be construed to alter, limit, or negate any other rights, remedies,
28 or procedures provided by law.

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

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

36 (k) This section shall remain in effect only until January 1,
37 2018, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before January 1, 2018, deletes or extends that date.

39 SEC. 6. Section 2924.12 of the Civil Code, as added by Section
40 17 of Chapter 86 of the Statutes of 2012, is amended to read:

1 2924.12. (a) (1) If a trustee's deed upon sale has not been
2 recorded, a borrower may bring an action for injunctive relief to
3 enjoin a material violation of Section 2923.5, 2923.7, 2924.11, or
4 2924.17.

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

12 (b) After a trustee's deed upon sale has been recorded, a
13 mortgage servicer, mortgagee, trustee, beneficiary, or authorized
14 agent shall be liable to a borrower for actual economic damages
15 pursuant to Section 3281, resulting from a material violation of
16 Section 2923.5, 2923.7, 2924.11, or 2924.17 by that mortgage
17 servicer, mortgagee, trustee, beneficiary, or authorized agent where
18 the violation was not corrected and remedied prior to the
19 recordation of the trustee's deed upon sale. If the court finds that
20 the material violation was intentional or reckless, or resulted from
21 willful misconduct by a mortgage servicer, mortgagee, trustee,
22 beneficiary, or authorized agent, the court may award the borrower
23 the greater of treble actual damages or statutory damages of fifty
24 thousand dollars (\$50,000).

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

31 (d) A violation of Section 2923.5, 2923.7, 2924.11, or 2924.17
32 by a person licensed by the Department of Business Oversight or
33 the Bureau of Real Estate shall be deemed to be a violation of that
34 person's licensing law.

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

38 (f) A third-party encumbrancer shall not be relieved of liability
39 resulting from violations of Section 2923.5, 2923.7, 2924.11, or

1 2924.17 committed by that third-party encumbrancer, that occurred
2 prior to the sale of the subject property to the bona fide purchaser.

3 (g) 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 (h) 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 (i) This section shall become operative on January 1, 2018.

14 SEC. 7. Section 2924.12 of the Civil Code, as added by Section
15 17 of Chapter 87 of the Statutes of 2012, is amended to read:

16 2924.12. (a) (1) If a trustee's deed upon sale has not been
17 recorded, a borrower may bring an action for injunctive relief to
18 enjoin a material violation of Section 2923.5, 2923.7, 2924.11, or
19 2924.17.

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

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

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

7 (d) A violation of Section 2923.5, 2923.7, 2924.11, or 2924.17
 8 by a person licensed by the Department of Business Oversight or
 9 the Bureau of Real Estate shall be deemed to be a violation of that
 10 person’s licensing law.

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

14 (f) A third-party encumbrancer shall not be relieved of liability
 15 resulting from violations of Section 2923.5, 2923.7, 2924.11, or
 16 2924.17 committed by that third-party encumbrancer, that occurred
 17 prior to the sale of the subject property to the bona fide purchaser.

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

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

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

29 SEC. 8. Section 2924.17 of the Civil Code, as added by Section
 30 20 of Chapter 86 of the Statutes of 2012, is amended to read:

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

39 (b) Before recording or filing any of the documents described
 40 in subdivision (a), a mortgage servicer shall ensure that it has

1 reviewed competent and reliable evidence to substantiate the
2 borrower's default and the right to foreclose, including the
3 borrower's loan status and loan information.

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

15 SEC. 9. Section 2924.17 of the Civil Code, as added by Section
16 20 of Chapter 87 of the Statutes of 2012, is amended to read:

17 2924.17. (a) A declaration recorded pursuant to Section 2923.5
18 or, until January 1, 2018, pursuant to Section 2923.55, a notice of
19 default, notice of sale, assignment of a deed of trust, or substitution
20 of trustee recorded by or on behalf of a mortgage servicer in
21 connection with a foreclosure subject to the requirements of Section
22 2924, or a declaration or affidavit filed in any court relative to a
23 foreclosure proceeding shall be accurate and complete and
24 supported by competent and reliable evidence.

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

30 (c) Until January 1, 2018, any mortgage servicer that engages
31 in multiple and repeated uncorrected violations of subdivision (b)
32 in recording documents or filing documents in any court relative
33 to a foreclosure proceeding shall be liable for a civil penalty of up
34 to seven thousand five hundred dollars (\$7,500) per mortgage or
35 deed of trust in an action brought by a government entity identified
36 in Section 17204 of the Business and Professions Code, or in an
37 administrative proceeding brought by the Department of Business
38 Oversight or the Bureau of Real Estate against a respective licensee,
39 in addition to any other remedies available to these entities. This
40 subdivision shall be inoperative on January 1, 2018.

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

4 2924.19. (a) (1) If a trustee's deed upon sale has not been
5 recorded, a borrower may bring an action for injunctive relief to
6 enjoin a material violation of Section 2923.5, 2924.17, or 2924.18.

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

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

26 (c) A mortgage servicer, mortgagee, beneficiary, or authorized
27 agent shall not be liable for any violation that it has corrected and
28 remedied prior to the recordation of the trustee's deed upon sale,
29 or that has been corrected and remedied by third parties working
30 on its behalf prior to the recordation of the trustee's deed upon
31 sale.

32 (d) A violation of Section 2923.5, 2924.17, or 2924.18 by a
33 person licensed by the Department of Business Oversight or the
34 Bureau of Real Estate shall be deemed to be a violation of that
35 person's licensing law.

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

39 (f) A third-party encumbrancer shall not be relieved of liability
40 resulting from violations of Section 2923.5, 2924.17, or 2924.18,

1 committed by that third-party encumbrancer, that occurred prior
2 to the sale of the subject property to the bona fide purchaser.

3 (g) 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 (h) 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 damages pursuant to this section.

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

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

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

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

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

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

1 the court may award the borrower the greater of treble actual
2 damages or statutory damages of fifty thousand dollars (\$50,000).

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

9 (d) A violation of Section 2923.5, 2924.17, or 2924.18 by a
10 person licensed by the Department of Business Oversight or the
11 Bureau of Real Estate shall be deemed to be a violation of that
12 person’s licensing law.

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

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

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

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

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

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

35 SEC. 12. Section 2924.20 of the Civil Code, as added by
36 Section 23 of Chapter 86 of the Statutes of 2012, is amended to
37 read:

38 2924.20. Consistent with their general regulatory authority,
39 and notwithstanding subdivisions (b) and (c) of Section 2924.18,
40 the Department of Business Oversight and the Bureau of Real

1 Estate may adopt regulations applicable to any entity or person
2 under their respective jurisdictions that are necessary to carry out
3 the purposes of the act that added this section. A violation of the
4 regulations adopted pursuant to this section shall only be
5 enforceable by the regulatory agency.

6 SEC. 13. Section 2924.20 of the Civil Code, as added by
7 Section 23 of Chapter 87 of the Statutes of 2012, is amended to
8 read:

9 2924.20. Consistent with their general regulatory authority,
10 and notwithstanding subdivisions (b) and (c) of Section 2924.18,
11 the Department of Business Oversight and the Bureau of Real
12 Estate may adopt regulations applicable to any entity or person
13 under their respective jurisdictions that are necessary to carry out
14 the purposes of the act that added this section. A violation of the
15 regulations adopted pursuant to this section shall only be
16 enforceable by the regulatory agency.

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

19 580d. (a) Except as provided in subdivision (b), no deficiency
20 shall be owed or collected, and no deficiency judgment shall be
21 rendered for a deficiency on a note secured by a deed of trust or
22 mortgage on real property or an estate for years therein executed
23 in any case in which the real property or estate for years therein
24 has been sold by the mortgagee or trustee under power of sale
25 contained in the mortgage or deed of trust.

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

32 (c) This section does not apply to a deed of trust, mortgage, or
33 other lien given to secure the payment of bonds or other evidences
34 of indebtedness authorized or permitted to be issued by the
35 Commissioner of Business Oversight or which is made by a public
36 utility subject to the Public Utilities Act (Part 1 (commencing with
37 Section 201) of Division 1 of the Public Utilities Code).

38 SEC. 15. Section 684.115 of the Code of Civil Procedure is
39 amended to read:

1 684.115. (a) A financial institution may, and if it has more
2 than nine branches or offices at which it conducts its business
3 within this state shall, designate one or more central locations for
4 service of legal process within this state. Each designated location
5 shall be referred to as a “central location.” If a financial institution
6 elects or is required to designate a central location for service of
7 legal process, the financial institution shall file a notice of its
8 designation with the Department of Business Oversight which
9 filing shall be effective upon filing and shall contain all of the
10 following:

11 (1) The physical address of the central location.
12 (2) The days and hours during which service will be accepted
13 at the central location.
14 (3) If the central location will not accept service of legal process
15 directed at deposit accounts maintained or property held at all of
16 the financial institution’s branches or offices within this state, or
17 if the service accepted at the central location will not apply to
18 safe-deposit boxes or other property of the judgment debtor held
19 by or for the judgment debtor, the filing shall also contain sufficient
20 information to permit a determination of the limitation or
21 limitations, including, in the case of a limitation applicable to
22 certain branches or offices, an identification of the branches or
23 offices as to which service at the central location will not apply
24 and the nature of the limitation applicable to those branches or
25 offices. If the limitation will apply to all branches or offices of the
26 financial institution within this state, the filing may indicate the
27 nature of the limitation and that it applies to all branches or offices,
28 in lieu of an identification of branches or offices as to which the
29 limitation applies. To the extent that a financial institution’s
30 designation of a central location for service of legal process covers
31 the process directed at deposit accounts, safe-deposit boxes, or
32 other property of the judgment debtor held by or for the judgment
33 debtor at a particular branch or office located within this state, the
34 branch or office shall be a branch or office covered by central
35 process.

36 (b) Should a financial institution required to designate a central
37 location fail to do so, each branch of that institution located in this
38 state shall be deemed to be a central location at which service of
39 legal process may be made, and all of the institution’s branches

1 or offices located within this state shall be deemed to be a branch
2 or office covered by central process.

3 (c) Subject to any limitation noted pursuant to paragraph (3) of
4 subdivision (a), service of legal process at a central location of a
5 financial institution shall be effective against all deposit accounts
6 and all property held for safekeeping, as collateral for an obligation
7 owed to the financial institution or in a safe-deposit box if the same
8 is described in the legal process and held by the financial institution
9 at any branch or office covered by central process and located
10 within this state. However, while service of legal process at the
11 central location will establish a lien on all property, if any property
12 other than deposit accounts is physically held by the financial
13 institution in a county other than that in which the designated
14 central location is located, the financial institution shall include in
15 its garnishee's memorandum the location or locations of the
16 property, and the judgment creditor shall obtain a writ of execution
17 covering the property and directed to the levying officer in that
18 county to accomplish the turnover of the property and shall forward
19 the writ and related required documentation to the levying officer
20 in the county in which the property is held.

21 (d) A financial institution may modify or revoke any designation
22 made pursuant to subdivision (a) by filing the modification or
23 revocation with the Department of Business Oversight. The
24 modification or revocation shall be effective when the Department
25 of Business Oversight's records have been updated to reflect the
26 modification or revocation, provided that the judgment creditor
27 may rely upon the superseded designation during the 30-day period
28 following the effective date of the revocation or modification.

29 (e) (1) The Department of Business Oversight shall update its
30 online records to reflect a filing by a financial institution pursuant
31 to subdivision (a) or a modification or revocation filed by a
32 financial institution pursuant to subdivision (d) within 10 business
33 days following the filing by the financial institution. The
34 Department of Business Oversight's Internet Web site shall reflect
35 the date its online records for each financial institution have most
36 recently been updated.

37 (2) The Department of Business Oversight shall provide any
38 person requesting it with a copy of each current filing made by a
39 financial institution pursuant to subdivision (a). The Department
40 of Business Oversight may satisfy its obligation under this

1 subdivision by posting all current designations of a financial
2 institution, or the pertinent information therein, on an Internet Web
3 site available to the public without charge, and if that information
4 is made available, the Department of Business Oversight may
5 impose a reasonable fee for furnishing that information in any
6 other manner.

7 (f) As to deposit accounts maintained or property held for
8 safekeeping, as collateral for an obligation owed to the financial
9 institution or in a safe-deposit box at a branch or office covered
10 by central process, service of legal process at a location other than
11 a central location designated by the financial institution shall not
12 be effective unless the financial institution, in its absolute
13 discretion, elects to act upon the process at that location as if it
14 were effective. In the absence of an election, the financial
15 institution may respond to the legal process by mailing or delivery
16 of the garnishee's memorandum to the levying officer within the
17 time otherwise provided therefor, with a statement on the
18 garnishee's memorandum that the legal process was not properly
19 served at the financial institution's designated location for receiving
20 legal process, and, therefore, was not processed, and the address
21 at which the financial institution is to receive legal process.

22 (g) If any legal process is served at a central location of a
23 financial institution pursuant to this section, all related papers to
24 be served on the financial institution shall be served at that location,
25 unless agreed to the contrary between the serving party and the
26 financial institution.

27 (h) This subdivision shall apply whenever a financial institution
28 operates within this state at least one branch or office in addition
29 to its head office or main office, as applicable, or a financial
30 institution headquartered in another state operates more than one
31 branch or office within this state, and no central location has been
32 designated or deemed to have been designated by the institution
33 for service of legal process relating to deposit accounts maintained
34 at the financial institution's head office or main office, as
35 applicable, and branches located within this state. If a judgment
36 creditor reasonably believes that, pursuant to Section 700.140 and,
37 if applicable, Section 700.160, any act of enforcement would be
38 effective against a specific deposit account maintained at a financial
39 institution described in this subdivision, the judgment creditor may
40 file with the financial institution a written request that the financial

1 institution identify the branch or office within this state at which
2 a specified account might be maintained by the financial institution.
3 The written request shall contain the following statements or
4 information:

5 (1) The name of the person reasonably believed by the judgment
6 creditor to be a person in whose name the specified deposit account
7 stands.

8 (2) If the name of the person reasonably believed by the
9 judgment creditor to be a person in whose name the specified
10 deposit account stands is not a judgment debtor identified in the
11 writ of execution, a statement that a person reasonably believed
12 by the judgment creditor to be a person in whose name the specified
13 deposit account stands will be appropriately identified in the legal
14 process to be served pursuant to Section 700.160, including any
15 supplementary papers, such as a court order or affidavit if the same
16 will be required by Section 700.160.

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

20 (4) The address of the requesting party.

21 (5) An affidavit by the judgment creditor or the judgment
22 creditor's counsel stating substantially the following:

23

24 I

25 "I hereby declare that this deposit account location request
26 complies with Section 684.115 of the Code of Civil Procedure,
27 that the account or accounts of the judgment debtor or other person
28 or persons appropriately identified in the legal process and
29 specified herein are subject to a valid writ of execution, or court
30 order, that I have a reasonable belief, formed after an inquiry
31 reasonable under the circumstances, that the financial institution
32 receiving this deposit account location request has an account
33 standing in the name of the judgment debtor or other person or
34 persons appropriately identified in the legal process, and that
35 information pertaining to the location of the account will assist the
36 judgment creditor in enforcing the ~~judgment.~~ *judgment.*"

37

38 (i) The affidavit contemplated by subdivision (h) shall be signed
39 by the judgment creditor or the judgment creditor's counsel and
40 filed at the financial institution's head office located within this

1 state or, if the financial institution's head office is in another state,
2 at one of its branches or offices within this state. Failure to comply
3 with the requirements of subdivision (h) and this subdivision shall
4 be sufficient basis for the financial institution to refuse to produce
5 the information that would otherwise be required by subdivision
6 (j).

7 (j) Within 10 banking days following receipt by a financial
8 institution at the applicable location specified in subdivision (i) of
9 a request contemplated by subdivision (h), as to each specific
10 deposit account identified in the request contemplated by
11 subdivision (h), the financial institution shall respond by mailing,
12 by first-class mail with postage prepaid, to the requester's address
13 as specified in the request a response indicating the branch or office
14 location of the financial institution at which the specified deposit
15 account might be maintained, or, if the specified deposit account,
16 if it exists, would not be maintained at a specific location, at least
17 one place within this state at which legal process relating to the
18 deposit account should or may be served. The response to be
19 furnished pursuant to this subdivision shall not require the financial
20 institution to determine whether an account exists or, if an account
21 does exist, whether it would be reached by the legal process, rather,
22 the branch or office location shall be determined and reported by
23 the financial institution based solely upon its determination that
24 an account with the identifying number provided by the requester
25 would be maintained at that branch if an account did exist, and the
26 response shall not contain any information about the name in which
27 the account stands or any other information concerning the account,
28 if it exists. If more than one account number is specified in the
29 request, the financial institution's responses as to some or all of
30 those account numbers may be combined in a single writing.

31 (k) A response furnished in good faith by the financial institution
32 pursuant to subdivision (j) shall not be deemed to violate the
33 privacy of any person in whose name the specified deposit account
34 stands nor the privacy of any other person, and shall not require
35 the consent of the person in whose name the account stands nor
36 that of any other person.

37 (l) A financial institution shall not notify the person in whose
38 name the specified deposit account stands or any other person
39 related to the specified account of the receipt of any request made
40 pursuant to subdivision (h) and affecting that person's or persons'

1 accounts at the financial institution, provided that the financial
2 institution shall have no liability for its failure to comply with the
3 provisions of this subdivision.

4 SEC. 16. Section 163 of the Corporations Code is amended to
5 read:

6 163. “Corporation subject to the Banking Law” (Division 1.1
7 (commencing with Section 1000) of the Financial Code) means:

8 (a) Any corporation which, with the approval of the
9 Commissioner of Business Oversight, is incorporated for the
10 purpose of engaging in, or which is authorized by the
11 Commissioner of Business Oversight to engage in, the commercial
12 banking business under Division 1.1 (commencing with Section
13 1000) of the Financial Code.

14 (b) Any corporation which, with the approval of the
15 Commissioner of Business Oversight, is incorporated for the
16 purpose of engaging in, or which is authorized by the
17 Commissioner of Business Oversight to engage in, the industrial
18 banking business under Division 1.1 (commencing with Section
19 1000) of the Financial Code.

20 (c) Any corporation (other than a corporation described in
21 subdivision (d)) which, with the approval of the Commissioner of
22 Business Oversight, is incorporated for the purpose of engaging
23 in, or which is authorized by the Commissioner of Business
24 Oversight to engage in, the trust business under Division 1.1
25 (commencing with Section 1000) of the Financial Code.

26 (d) Any corporation which is authorized by the Commissioner
27 of Business Oversight and the Commissioner of Insurance to
28 maintain a title insurance department to engage in title insurance
29 business and a trust department to engage in trust business; or

30 (e) Any corporation which, with the approval of the
31 Commissioner of Business Oversight, is incorporated for the
32 purpose of engaging in, or which is authorized by the
33 Commissioner of Business Oversight to engage in, business under
34 Article 1 (commencing with Section 1850), Chapter 21, Division
35 1.1 of the Financial Code.

36 SEC. 17. Section 201 of the Corporations Code is amended to
37 read:

38 201. (a) The Secretary of State shall not file articles setting
39 forth a name in which “bank,” “trust,” ~~“trustee”~~ “trustee,” or
40 related words appear, unless the certificate of approval of the

1 Commissioner of Business Oversight is attached thereto. This
2 subdivision does not apply to the articles of any corporation subject
3 to the Banking Law on which is endorsed the approval of the
4 Commissioner of Business Oversight.

5 (b) The Secretary of State shall not file articles which set forth
6 a name which is likely to mislead the public or which is the same
7 as, or resembles so closely as to tend to deceive, the name of a
8 domestic corporation, the name of a foreign corporation which is
9 authorized to transact intrastate business or has registered its name
10 pursuant to Section 2101, a name which a foreign corporation has
11 assumed under subdivision (b) of Section 2106, a name which will
12 become the record name of a domestic or foreign corporation upon
13 the effective date of a filed corporate instrument where there is a
14 delayed effective date pursuant to subdivision (c) of Section 110
15 or subdivision (c) of Section 5008, or a name which is under
16 reservation for another corporation pursuant to this title, except
17 that a corporation may adopt a name that is substantially the same
18 as an existing domestic corporation or foreign corporation which
19 is authorized to transact intrastate business or has registered its
20 name pursuant to Section 2101, upon proof of consent by such
21 domestic or foreign corporation and a finding by the Secretary of
22 State that under the circumstances the public is not likely to be
23 misled.

24 The use by a corporation of a name in violation of this section
25 may be enjoined notwithstanding the filing of its articles by the
26 Secretary of State.

27 (c) Any applicant may, upon payment of the fee prescribed
28 therefor in the Government Code, obtain from the Secretary of
29 State a certificate of reservation of any name not prohibited by
30 subdivision (b), and upon the issuance of the certificate the name
31 stated therein shall be reserved for a period of 60 days. The
32 Secretary of State shall not, however, issue certificates reserving
33 the same name for two or more consecutive 60-day periods to the
34 same applicant or for the use or benefit of the same person,
35 partnership, firm or corporation; nor shall consecutive reservations
36 be made by or for the use or benefit of the same person, partnership,
37 firm or corporation of names so similar as to fall within the
38 prohibitions of subdivision (b).

39 SEC. 18. Section 2510 of the Corporations Code is amended
40 to read:

1 2510. “Flexible purpose corporation subject to the Banking
2 Law” means any of the following:

3 (a) A flexible purpose corporation that, with the approval of the
4 Commissioner of Business Oversight, is incorporated for the
5 purpose of engaging in, or that is authorized by the Commissioner
6 of Business Oversight to engage in, the commercial banking
7 business under the Banking Law (Division 1.1 (commencing with
8 Section 1000) of the Financial Code).

9 (b) Any flexible purpose corporation that, with the approval of
10 the Commissioner of Business Oversight, is incorporated for the
11 purpose of engaging in, or that is authorized by the Commissioner
12 of Business Oversight to engage in, the industrial banking business
13 under the Banking Law (Division 1.1 (commencing with Section
14 1000) of the Financial Code).

15 (c) Any flexible purpose corporation, other than a flexible
16 purpose corporation described in subdivision (d), that, with the
17 approval of the Commissioner of Business Oversight, is
18 incorporated for the purpose of engaging in, or that is authorized
19 by the Commissioner of Business Oversight to engage in, the trust
20 business under the Banking Law (Division 1.1 (commencing with
21 Section 1000) of the Financial Code).

22 (d) Any flexible purpose corporation that is authorized by the
23 Commissioner of Business Oversight and the Commissioner of
24 Insurance to maintain a title insurance department to engage in
25 title insurance business and a trust department to engage in trust
26 business.

27 (e) Any flexible purpose corporation that, with the approval of
28 the Commissioner of Business Oversight, is incorporated for the
29 purpose of engaging in, or that is authorized by the Commissioner
30 of Business Oversight to engage in, business under Article 1
31 (commencing with Section 1850) of Chapter 21 of Division 1.1
32 of the Financial Code.

33 SEC. 19. Section 2601 of the Corporations Code is amended
34 to read:

35 2601. (a) The Secretary of State shall not file articles setting
36 forth a name in which “bank,” “trust,” ~~“trustee”~~ “trustee,” or
37 related words appear, unless the certificate of approval of the
38 Commissioner of Business Oversight is attached to the articles.
39 This subdivision does not apply to the articles of any flexible

1 purpose corporation subject to the Banking Law on which is
2 endorsed the approval of the Commissioner of Business Oversight.

3 (b) The Secretary of State shall not file articles that set forth a
4 name that is likely to mislead the public or that is the same as, or
5 resembles so closely as to tend to deceive, the name of a domestic
6 corporation, the name of a domestic flexible purpose corporation,
7 or the name of a foreign corporation that is authorized to transact
8 intrastate business or has registered its name pursuant to Section
9 2101, a name that a foreign corporation has assumed under
10 subdivision (b) of Section 2106, a name that will become the record
11 name of a corporation or flexible purpose corporation or a foreign
12 corporation upon the effective date of a filed corporate instrument
13 where there is a delayed effective date pursuant to subdivision (c)
14 of Section 110 or subdivision (c) of Section 5008, or a name that
15 is under reservation for another corporation or flexible purpose
16 corporation pursuant to this title, except that a flexible purpose
17 corporation may adopt a name that is substantially the same as an
18 existing corporation or flexible purpose corporation, foreign or
19 domestic, which is authorized to transact intrastate business or has
20 registered its name pursuant to Section 2101, upon proof of consent
21 by the domestic or foreign corporation or flexible purpose
22 corporation and a finding by the Secretary of State that under the
23 circumstances the public is not likely to be misled. The use by a
24 flexible purpose corporation of a name in violation of this section
25 may be enjoined notwithstanding the filing of its articles by the
26 Secretary of State.

27 (c) Any applicant may, upon payment of the fee prescribed in
28 the Government Code, obtain from the Secretary of State a
29 certificate of reservation of any name not prohibited by subdivision
30 (b), and upon the issuance of the certificate the name stated in the
31 certificate shall be reserved for a period of 60 days. The Secretary
32 of State shall not, however, issue certificates reserving the same
33 name for two or more consecutive 60-day periods to the same
34 applicant or for the use or benefit of the same person, partnership,
35 firm, corporation, or flexible purpose corporation. No consecutive
36 reservations shall be made by or for the use or benefit of the same
37 person, partnership, firm, corporation, or flexible purpose
38 corporation of names so similar as to fall within the prohibitions
39 of subdivision (b).

1 SEC. 20. Section 5122 of the Corporations Code is amended
2 to read:

3 5122. (a) The Secretary of State shall not file articles setting
4 forth a name in which “bank,” “trust,” ~~“trustee”~~ “*trustee*,” or
5 related words appear, unless the certificate of approval of the
6 Commissioner of Business Oversight is attached thereto.

7 (b) The Secretary of State shall not file articles which set forth
8 a name which is likely to mislead the public or which is the same
9 as, or resembles so closely as to tend to deceive, the name of a
10 domestic corporation, the name of a foreign corporation which is
11 authorized to transact intrastate business or has registered its name
12 pursuant to Section 2101, a name which a foreign corporation has
13 assumed under subdivision (b) of Section 2106 or a name which
14 will become the record name of a domestic or foreign corporation
15 upon the effective date of a filed corporate instrument where there
16 is a delayed effective date pursuant to subdivision (c) of Section
17 110, or subdivision (c) of Section 5008, or a name which is under
18 reservation pursuant to this title, except that a corporation may
19 adopt a name that is substantially the same as an existing domestic
20 or foreign corporation which is authorized to transact intrastate
21 business or has registered its name pursuant to Section 2101, upon
22 proof of consent by such corporation and a finding by the Secretary
23 of State that under the circumstances the public is not likely to be
24 misled.

25 The use by a corporation of a name in violation of this section
26 may be enjoined notwithstanding the filing of its articles by the
27 Secretary of State.

28 (c) Any applicant may, upon payment of the fee prescribed
29 therefor in the Government Code, obtain from the Secretary of
30 State a certificate of reservation of any name not prohibited by
31 subdivision (b), and upon the issuance of the certificate the name
32 stated therein shall be reserved for a period of 60 days. The
33 Secretary of State shall not, however, issue certificates reserving
34 the same name for two or more consecutive 60-day periods to the
35 same applicant or for the use or benefit of the same person; nor
36 shall consecutive reservations be made by or for the use or benefit
37 of the same person of names so similar as to fall within the
38 prohibitions of subdivision (b).

39 SEC. 21. Section 7122 of the Corporations Code is amended
40 to read:

1 7122. (a) The Secretary of State shall not file articles setting
2 forth a name in which “bank,” “trust,” “trustee,” or related words
3 appear, unless the certificate of approval of the Commissioner of
4 Business Oversight is attached thereto.

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

9 (c) The Secretary of State shall not file articles which set forth
10 a name which is likely to mislead the public or which is the same
11 as, or resembles so closely as to tend to deceive, the name of a
12 domestic corporation, the name of a foreign corporation which is
13 authorized to transact intrastate business or has registered its name
14 pursuant to Section 2101, a name which a foreign corporation has
15 assumed under subdivision (b) of Section 2106, a name which will
16 become the record name of a domestic or foreign corporation upon
17 the effective date of a filed corporate instrument where there is a
18 delayed effective date pursuant to subdivision (c) of Section 110,
19 or subdivision (c) of Section 5008, or a name which is under
20 reservation pursuant to this title, except that a corporation may
21 adopt a name that is substantially the same as an existing domestic
22 or foreign corporation which is authorized to transact intrastate
23 business or has registered its name pursuant to Section 2101, upon
24 proof of consent by such corporation and a finding by the Secretary
25 of State that under the circumstances the public is not likely to be
26 misled.

27 The use by a corporation of a name in violation of this section
28 may be enjoined notwithstanding the filing of its articles by the
29 Secretary of State.

30 (d) Any applicant may, upon payment of the fee prescribed
31 therefor in the Government Code, obtain from the Secretary of
32 State a certificate of reservation of any name not prohibited by
33 subdivision (c), and upon the issuance of the certificate the name
34 stated therein shall be reserved for a period of 60 days. The
35 Secretary of State shall not, however, issue certificates reserving
36 the same name for two or more consecutive 60-day periods to the
37 same applicant or for the use or benefit of the same person; nor
38 shall consecutive reservations be made by or for the use or benefit
39 of the same person of names so similar as to fall within the
40 prohibitions of subdivision (c).

1 SEC. 22. Section 9122 of the Corporations Code is amended
2 to read:

3 9122. (a) The Secretary of State shall not file articles setting
4 forth a name in which “bank,” “trust,” “trustee,” or related words
5 appear, unless the certificate of approval of the Commissioner of
6 Business Oversight is attached thereto.

7 (b) The Secretary of State shall not file articles which set forth
8 a name which is likely to mislead the public or which is the same
9 as, or resembles so closely as to tend to deceive, the name of a
10 domestic corporation, the name of a foreign corporation which is
11 authorized to transact intrastate business or has registered its name
12 pursuant to Section 2101, a name which a foreign corporation has
13 assumed under subdivision (b) of Section 2106 or a name which
14 will become the record name of a domestic or foreign corporation
15 upon the effective date of a filed corporate instrument where there
16 is a delayed effective date pursuant to subdivision (c) of Section
17 110 or subdivision (c) of Section 5008, or a name which is under
18 reservation pursuant to this title, except that a corporation may
19 adopt a name that is substantially the same as an existing domestic
20 or foreign corporation which is authorized to transact intrastate
21 business or has registered its name pursuant to Section 2101, upon
22 proof of consent by such corporation and a finding by the Secretary
23 of State that under the circumstances the public is not likely to be
24 misled.

25 The use by a corporation of a name in violation of this section
26 may be enjoined notwithstanding the filing of its articles by the
27 Secretary of State.

28 (c) Any applicant may, upon payment of the fee prescribed
29 therefor in the Government Code, obtain from the Secretary of
30 State a certificate of reservation of any name not prohibited by
31 subdivision (b), and upon the issuance of the certificate the name
32 stated therein shall be reserved for a period of 60 days. The
33 Secretary of State shall not, however, issue certificates reserving
34 the same name for two or more consecutive 60-day periods to the
35 same applicant or for the use or benefit of the same person; nor
36 shall consecutive reservations be made by or for the use or benefit
37 of the same person of names so similar as to fall within the
38 prohibitions of subdivision (b).

39 SEC. 23. Section 12302 of the Corporations Code is amended
40 to read:

1 12302. (a) The Secretary of State shall not file articles setting
2 forth a name in which “bank,” “trust,” ~~“trustee”~~ “*trustee*,” or
3 related words appear, unless the certificate of approval of the
4 Commissioner of Business Oversight is attached thereto.

5 (b) The Secretary of State shall not file articles which set forth
6 a name which is likely to mislead the public or which is the same
7 as, or resembles so closely as to tend to deceive, the name of a
8 domestic corporation, the name of a foreign corporation which is
9 authorized to transact intrastate business or has registered its name
10 pursuant to Section 2101, a name which a foreign corporation has
11 assumed under subdivision (b) of Section 2106, a name which will
12 become the record name of a domestic or foreign corporation upon
13 the effective date of a filed corporate instrument where there is a
14 delayed effective date pursuant to this title, or a name which is
15 under reservation pursuant to this title, except that a corporation
16 may adopt a name that is substantially the same as an existing
17 domestic or foreign corporation which is authorized to transact
18 intrastate business or has registered its name pursuant to Section
19 2101, upon proof of consent by such corporation and a finding by
20 the Secretary of State that under the circumstances the public is
21 not likely to be misled.

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

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

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

37 371. (a) There is in the Department of Business Oversight, the
38 Division of Corporations, under the direction of the Senior Deputy
39 Commissioner of Business Oversight for the Division of
40 Corporations. The senior deputy commissioner has charge of the

1 execution of the laws of the state that were, prior to July 1, 2013,
2 under the charge of the Department of Corporations.

3 (b) There is in the Department of Business Oversight, the
4 Division of Financial Institutions under the direction of the Senior
5 Deputy Commissioner for the Division of Financial Institutions.
6 The senior deputy commissioner has charge of the execution of
7 the laws of the state that were, prior to July 1, 2013, under the
8 charge of the Department of Financial Institutions.

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

10 380. (a) The commissioner shall inform appropriate state and
11 federal officials charged with the regulation of financial institutions
12 or securities transactions of any enforcement actions, including,
13 but not limited to, civil or criminal actions, cease and desist orders,
14 license or authorization suspensions or revocations, or an open
15 investigation.

16 (b) The commissioner shall inform appropriate state and federal
17 officials charged with the regulation of financial institutions or
18 securities transactions if it appears that any bank, bank holding
19 company, savings association, savings and loan holding company,
20 credit union, industrial loan company, industrial loan holding
21 company, or other licensee of the department is conducting its
22 business in a fraudulent, unsafe, unsound, or injurious manner, or
23 has suffered or will suffer substantial financial loss or damage,
24 and it appears to the commissioner that the information is relevant
25 to the regulatory activities of the other agency.

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

28 1514. A commercial bank may organize, sponsor, operate,
29 control, or render investment advice to, an investment company,
30 or underwrite, distribute, or sell securities of any investment
31 company which has qualified to sell its securities in this state
32 pursuant to Part 2 (commencing with Section 25100) of Division
33 1 of Title 4 of the Corporations Code, if the officers and employees
34 of the bank who sell these securities meet such standards with
35 respect to training, experience, and sales practices as established
36 by the Secretary of Business, Consumer Services, and Housing or
37 the secretary's designee. For the purpose of this section,
38 "investment company" means an investment company as defined
39 in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et
40 seq.).

1 SEC. 27. Section 2105 of the Financial Code is amended to
2 read:

3 2105. (a) Each licensee or agent shall prominently post on the
4 premises of each branch office that conducts money transmission
5 a notice stating that:

6
7 “If you have complaints with respect to any aspect of the money
8 transmission activities conducted at this location, you may contact the
9 ~~Department of Business~~ *Department of Business* Oversight at its toll-free
10 telephone number 1-800-275-2677, its Internet Web site at
11 www.dbo.ca.gov/Consumer/consumer_services.asp, or by mail at
12 Department of Business Oversight, Consumer Services, 1515 K Street,
13 Suite 200, Sacramento, CA 95814.”

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

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

30 5106. “Department” means the Department of Business
31 Oversight.

32 SEC. 29. Section 14381 of the Financial Code is amended to
33 read:

34 14381. The Credit Union Advisory Committee shall advise the
35 commissioner and the Deputy Commissioner of Business Oversight
36 for the Office of Credit Unions on matters relating to credit unions
37 or the credit union business.

38 SEC. 30. Section 14382 of the Financial Code is amended to
39 read:

1 14382. (a) The Credit Union Advisory Committee consists of
2 seven members.

3 (b) The members of the Credit Union Advisory Committee shall
4 be appointed by the Secretary of Business, Consumer Services,
5 and Housing.

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

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

12 (e) No member of the Credit Union Advisory Committee shall
13 receive any compensation, reimbursement for expenses, or other
14 payment from the state in connection with service on the Credit
15 Union Advisory Committee.

16 SEC. 31. Section 14652.5 of the Financial Code is amended
17 to read:

18 14652.5. A credit union 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 credit union who sell these securities meet such standards
25 with respect to training, experience, and sales practices as
26 established by the Secretary of Business, Consumer Services, and
27 Housing or the secretary's designee. For the purpose of this section,
28 "investment company" means an investment company as defined
29 in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et
30 seq.).

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

33 18002.5. "Department" means the Department of Business
34 Oversight.

35 SEC. 33. Section 18022.5 of the Financial Code is amended
36 to read:

37 18022.5. An industrial loan company may organize, sponsor,
38 operate, control, or render investment advice to, an investment
39 company, or underwrite, distribute, or sell securities of any
40 investment company which has qualified to sell its securities in

1 this state pursuant to Part 2 (commencing with Section 25100) of
2 Division 1, Title 4 of the Corporations Code, if the officers and
3 employees of the industrial loan company who sell these securities
4 meet such standards with respect to training experience, and sales
5 practices as established by the Secretary of Business, Consumer
6 Services, and Housing or the secretary's designee. For the purpose
7 of this section, "investment company" means an investment
8 company as defined in the Investment Company Act of 1940 (15
9 U.S.C., Sec. 80a-1 et seq.).

10 SEC. 34. Section 23001 of the Financial Code is amended to
11 read:

12 23001. As used in this division, the following terms have the
13 following meanings:

14 (a) "Deferred deposit transaction" means a transaction whereby
15 a person defers depositing a customer's personal check until a
16 specific date, pursuant to a written agreement for a fee or other
17 charge, as provided in Section 23035.

18 (b) "Commissioner" means the Commissioner of Business
19 Oversight.

20 (c) "Department" means the Department of Business Oversight.

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

38 (e) "Person" means an individual, a corporation, a partnership,
39 a limited liability company, a joint venture, an association, a joint
40 stock company, a trust, an unincorporated organization, a

1 government entity, or a political subdivision of a government
2 entity.

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

5 SEC. 35. Section 6254.5 of the Government Code is amended
6 to read:

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

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

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

18 (b) Made through other legal proceedings or as otherwise
19 required by law.

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

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

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

31 (f) Of records relating to a financial institution or an affiliate
32 thereof, if the disclosures are made to the financial institution or
33 affiliate by a state agency responsible for the regulation or
34 supervision of the financial institution or affiliate.

35 (g) Of records relating to any person that is subject to the
36 jurisdiction of the Department of Business Oversight, if the
37 disclosures are made to the person that is the subject of the records
38 for the purpose of corrective action by that person, or if a
39 corporation, to an officer, director, or other key personnel of the
40 corporation for the purpose of corrective action, or to any other

1 person to the extent necessary to obtain information from that
2 person for the purpose of an investigation by the Department of
3 Corporations.

4 (h) Made by the Commissioner of Business Oversight under
5 Section 450, 452, 8009, or 18396 of the Financial Code.

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

15 SEC. 36. Section 7465 of the Government Code is amended
16 to read:

17 7465. For the purposes of this chapter:

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

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

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

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

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

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

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

2 (1) The Department of Business 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 Business Oversight pursuant to the enforcement
36 of statutes within his or her jurisdiction, or the district attorney of
37 any county in connection with investigations of violations of
38 antitrust law as authorized by Section 16759 of the Business and
39 Professions Code, may petition a court of competent jurisdiction
40 in the county in which the records are located, and the court, upon

1 a showing of a reasonable inference that a law subject to the
2 jurisdiction of the petitioning agency has been or is about to be
3 violated, may order that service upon the customer pursuant to
4 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 Business Oversight, or the district attorney from
9 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 Business Oversight when
 6 conducting investigations in connection with the enforcement of
 7 laws administered by the Commissioner of Business Oversight,
 8 from requesting of an office or branch of a financial institution,
 9 and the office or branch from responding to a request, as to whether
 10 a person has an account or accounts at that office or branch and,
 11 if so, any identifying numbers of the account or accounts.

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

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

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

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

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

39 (3) With respect to the Administrator of Local Agency Security
 40 by reference to Article 2 (commencing with Section 53630) of

1 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
2 Code.

3 (g) The disclosure to the Franchise Tax Board of (1) the amount
4 of any security interest that a financial institution has in a specified
5 asset of a customer or (2) financial records in connection with the
6 filing or audit of a tax return or tax information return that are
7 required to be filed by the financial institution pursuant to Part 10
8 (commencing with Section 17001), Part 11 (commencing with
9 Section 23001), or Part 18 (commencing with Section 38001), of
10 the Revenue and Taxation Code.

11 (h) The disclosure to the State Board of Equalization of any of
12 the following:

13 (1) The information required by Sections 6702, 6703, 8954,
14 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
15 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
16 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
17 Revenue and Taxation Code.

18 (2) The financial records in connection with the filing or audit
19 of a tax return required to be filed by the financial institution
20 pursuant to Part 1 (commencing with Section 6001), Part 2
21 (commencing with Section 7301), Part 3 (commencing with Section
22 8601), Part 13 (commencing with Section 30001), Part 14
23 (commencing with Section 32001), and Part 17 (commencing with
24 Section 37001), of Division 2 of the Revenue and Taxation Code.

25 (3) The amount of any security interest a financial institution
26 has in a specified asset of a customer, if the inquiry is directed to
27 the branch or office where the interest is held.

28 (i) The disclosure to the Controller of the information required
29 by Section 7853 of the Revenue and Taxation Code.

30 (j) The disclosure to the Employment Development Department
31 of the amount of any security interest a financial institution has in
32 a specified asset of a customer, if the inquiry is directed to the
33 branch or office where the interest is held.

34 (k) The disclosure by a construction lender, as defined in Section
35 8006 of the Civil Code, to the Registrar of Contractors, of
36 information concerning the making of progress payments to a
37 prime contractor requested by the registrar in connection with an
38 investigation under Section 7108.5 of the Business and Professions
39 Code.

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

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

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

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

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

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

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

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

39 (i) Form 599.

40 (ii) Form 1099.

- 1 (iii) A bank statement.
- 2 (iv) A check.
- 3 (v) A bank passbook.
- 4 (vi) A deposit slip.
- 5 (vii) A copy of a federal or state income tax return.
- 6 (viii) A debit or credit advice.
- 7 (ix) Correspondence that identifies the child support obligor by
- 8 name, the bank, and the account number.
- 9 (x) Correspondence that identifies the child support obligor by
- 10 name, the bank, and the banking services related to the account of
- 11 the obligor.
- 12 (xi) An asset identification report from a federal agency.
- 13 (B) A sworn declaration of the custodial parent during the 12
- 14 months immediately preceding the request that the person named
- 15 in the request has had or may have had an account at an office or
- 16 branch of the financial institution to which the request is made.
- 17 (7) Information obtained by a local child support agency
- 18 pursuant to this subdivision shall be used only for purposes that
- 19 are directly connected with the administration of the duties of the
- 20 local child support agency pursuant to Section 17400 of the Family
- 21 Code.
- 22 (m) (1) As provided in paragraph (1) of subdivision (c) of
- 23 Section 666 of Title 42 of the United States Code, upon receipt of
- 24 an administrative subpoena on the current federally approved
- 25 interstate child support enforcement form, as approved by the
- 26 federal Office of Management and Budget, a financial institution
- 27 shall provide the information or documents requested by the
- 28 administrative subpoena.
- 29 (2) The administrative subpoena shall refer to the current federal
- 30 Office of Management and Budget control number and be signed
- 31 by a person who states that he or she is an authorized agent of a
- 32 state or county agency responsible for implementing the child
- 33 support enforcement program set forth in Part D (commencing
- 34 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
- 35 United States Code. A financial institution may rely on the
- 36 statements made in the subpoena and has no duty to inquire into
- 37 the truth of any statement in the subpoena.
- 38 (3) If the person who signs the administrative subpoena directs
- 39 a financial institution in writing not to disclose either the subpoena
- 40 or its response to any owner of an account covered by the subpoena,

1 the financial institution shall not disclose the subpoena or its
2 response to the owner.

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

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

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

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

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

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

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

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

38 (D) Nothing in this subdivision shall preclude the financial
39 institution from notifying a customer of the receipt of the order
40 for production of records unless a court orders the financial

1 institution to withhold notification to the customer upon a finding
2 that the notice would impede the investigation.

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

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

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

13 (A) Disclosing information to a probate court pursuant to
14 Sections 2892 and 2893.

15 (B) Disclosing information in response to a court order pursuant
16 to paragraph (3).

17 (C) Complying with a court order under this subdivision not to
18 disclose to the customer, the order, or the dissemination of
19 information pursuant to the court order.

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

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

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

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

36 (p) When the governing board of the Public Employees'
37 Retirement System or the State Teachers' Retirement System
38 certifies in writing to a financial institution that a benefit recipient
39 has died and that transfers to the benefit recipient's account at the
40 financial institution from the retirement system occurred after the

1 benefit recipient’s date of death, the financial institution shall
 2 furnish the retirement system with the name and address of any
 3 coowner, cosigner, or any other person who had access to the funds
 4 in the account following the date of the benefit recipient’s death,
 5 or if the account has been closed, the name and address of the
 6 person who closed the account.

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

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

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

36 SEC. 40. The heading of Part 4.5 (commencing with Section
 37 13975) of Division 3 of Title 2 of the Government Code is amended
 38 to read:

39
 40 **PART 4.5. TRANSPORTATION AGENCY**

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

3 12896. (a) This section applies to every action brought in the
4 name of the people of the State of California by the Commissioner
5 of Business Oversight before, on, or after the effective date of this
6 section, when enforcing provisions of those laws administered by
7 the Commissioner of Business Oversight which authorize the
8 Commissioner of Business Oversight to seek a permanent or
9 preliminary injunction, restraining order, or writ of mandate, or
10 the appointment of a receiver, monitor, conservator, or other
11 designated fiduciary or officer of the court, except actions brought
12 against any of the licensees specified in ~~subparagraphs~~ *paragraphs*
13 (1) through (8), inclusive, of subdivision (b) of Section 300 of the
14 Financial Code that are governed by other law. Upon a proper
15 showing, a permanent or preliminary injunction, restraining order,
16 or writ of mandate shall be granted and a receiver, monitor,
17 conservator, or other designated fiduciary or officer of the court
18 may be appointed for the defendant or the defendant's assets, or
19 any other ancillary relief may be granted as appropriate. The court
20 may order that the expenses and fees of the receiver, monitor,
21 conservator, or other designated fiduciary or officer of the court,
22 be paid from the property held by the receiver, monitor,
23 conservator, or other ~~court-designated~~ *court-designated* fiduciary
24 or officer, but neither the state, the Business, Consumer Services,
25 and Housing Agency, nor the Department of Business Oversight
26 shall be liable for any of those expenses and fees, unless expressly
27 provided for by written contract.

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

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

36 (2) Take possession of all books, records, and documents
37 relating to any unlawfully obtained property and the proceeds
38 thereof. In addition, they shall have the same right as a defendant
39 to request, obtain, inspect, copy, and obtain copies of books,

1 records, and documents maintained by third parties that relate to
2 unlawfully obtained property and the proceeds thereof.

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

6 (4) Avoid a transfer of any interest in any unlawfully obtained
7 property including the proceeds thereof to any person who
8 committed, aided or abetted, or participated in the commission of
9 unlawful acts or who had knowledge that the property had been
10 unlawfully obtained.

11 (5) Avoid a transfer of any interest in any unlawfully obtained
12 property including the proceeds thereof made with the intent to
13 hinder or delay the recovery of that property or any interest in it
14 by the receiver or any person from whom the property was
15 unlawfully obtained.

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

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

34 (8) Exercise any power authorized by statute or ordered by the
35 court.

36 (c) No person with actual or constructive notice of the
37 receivership shall interfere with the discharge of the receiver's
38 duties.

39 (d) No person may file any action or enforce or create any lien,
40 or cause to be issued, served, or levied any summons, subpoena,

1 attachment, or writ of execution against the receiver or any property
2 subject to the receivership without first obtaining prior court
3 approval upon motion with notice to the receiver and the
4 Commissioner of Business Oversight. Any legal procedure
5 described in this subdivision commenced without prior court
6 approval is void except as to a bona fide purchaser or encumbrancer
7 for value and without notice of the receivership. No person without
8 notice of the receivership shall incur any liability for commencing
9 or maintaining any legal procedure described by this subdivision.

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

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

16 (g) If any provision of this section or the application thereof to
17 any person or circumstances is held invalid, that invalidity shall
18 not affect other provisions or applications of this section which
19 can be given effect without the invalid provision or application,
20 and to this end the provisions of this section are severable.

21 (h) The recordation of a copy of the receivership order imparts
22 constructive notice of the receivership in connection with any
23 matter involving real property located in the county in which the
24 receivership order is recorded.

25 SEC. 42. Section 13975.2 of the Government Code is amended
26 to read:

27 13975.2. (a) This section applies to every action brought in
28 the name of the people of the State of California by the Director
29 of the Department of Managed Health Care before, on, or after the
30 effective date of this section, when enforcing provisions of those
31 laws administered by the Director of the Department of Managed
32 Health Care which authorize the Director of *the Department of*
33 Managed Health Care to seek a permanent or preliminary
34 injunction, restraining order, or writ of mandate, or the appointment
35 of a receiver, monitor, conservator, or other designated fiduciary
36 or officer of the court. Upon a proper showing, a permanent or
37 preliminary injunction, restraining order, or writ of mandate shall
38 be granted and a receiver, monitor, conservator, or other designated
39 fiduciary or officer of the court may be appointed for the defendant
40 or the defendant's assets, or any other ancillary relief may be

1 granted as appropriate. The court may order that the expenses and
2 fees of the receiver, monitor, conservator, or other designated
3 fiduciary or officer of the court, be paid from the property held by
4 the receiver, monitor, conservator, or other ~~court-designated~~
5 *court-designated* fiduciary or officer, but neither the state, the
6 Health and Human Services Agency, nor the Department of
7 Managed Health Care shall be liable for any of those expenses and
8 fees, unless expressly provided for by written contract.

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

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

17 (2) Take possession of all books, records, and documents
18 relating to any unlawfully obtained property and the proceeds
19 thereof. In addition, they shall have the same right as a defendant
20 to request, obtain, inspect, copy, and obtain copies of books,
21 records, and documents maintained by third parties that relate to
22 unlawfully obtained property and the proceeds thereof.

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

26 (4) Avoid a transfer of any interest in any unlawfully obtained
27 property including the proceeds thereof to any person who
28 committed, aided or abetted, or participated in the commission of
29 unlawful acts or who had knowledge that the property had been
30 unlawfully obtained.

31 (5) Avoid a transfer of any interest in any unlawfully obtained
32 property including the proceeds thereof made with the intent to
33 hinder or delay the recovery of that property or any interest in it
34 by the receiver or any person from whom the property was
35 unlawfully obtained.

36 (6) Avoid a transfer of any interest in any unlawfully obtained
37 property including the proceeds thereof that was made within one
38 year before the date of the entry of the receivership order if less
39 than a reasonably equivalent value was given in exchange for the
40 transfer, except that a bona fide transferee for value and without

1 notice that the property had been unlawfully obtained may retain
2 the interest transferred until the value given in exchange for the
3 transfer is returned to the transferee.

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

14 (8) Exercise any power authorized by statute or ordered by the
15 court.

16 (c) No person with actual or constructive notice of the
17 receivership shall interfere with the discharge of the receiver's
18 duties.

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

30 (e) The court shall have jurisdiction of all questions arising in
31 the receivership proceedings and may make any orders and
32 judgments as may be required, including orders after noticed
33 motion by the receiver to avoid transfers as provided in paragraphs
34 (4), (5), (6), and (7) of subdivision (b).

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

36 (g) If any provision of this section or the application thereof to
37 any person or circumstances is held invalid, that invalidity shall
38 not affect other provisions or applications of this section that can
39 be given effect without the invalid provision or application, and
40 to this end the provisions of this section are severable.

1 (h) The recordation of a copy of the receivership order imparts
2 constructive notice of the receivership in connection with any
3 matter involving real property located in the county in which the
4 receivership order is recorded.

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

7 12895. (a) There is in the Business, Consumer Services, and
8 Housing Agency a Department of Business Oversight containing
9 the Division of Corporations, which has the responsibility for
10 administering various laws. In order to effectively support the
11 Division of Corporations in the administration of these laws, there
12 is hereby established the State Corporations Fund. All expenses
13 and salaries of the Division of Corporations shall be paid out of
14 the State Corporations Fund. Therefore, notwithstanding any
15 provision of any law administered by the Division of Corporations
16 declaring that fees, reimbursements, assessments, or other money
17 or amounts charged and collected by the Division of Corporations
18 under these laws are to be delivered or transmitted to the Treasurer
19 and deposited to the credit of the General Fund, all fees,
20 reimbursements, assessments, and other money or amounts charged
21 and collected under these laws shall be delivered or transmitted to
22 the Treasurer and deposited to the credit of the State Corporations
23 Fund.

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

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

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

33 SEC. 44. Section 13995.40.5 of the Government Code is
34 amended to read:

35 13995.40.5. Notwithstanding subdivision (d) of Section
36 13995.40, the number of commissioners elected from each industry
37 category shall be determined by the weighted percentage of
38 assessments from that category, except that no more than six
39 commissioners shall be elected from the passenger car rental
40 category.

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

3 SEC. 46. Section 51298 of the Government Code is amended
4 to read:

5 51298. It is the intent of the Legislature in enacting this chapter
6 to provide local governments with opportunities to attract large
7 manufacturing facilities to invest in their communities and to
8 encourage industries, such as high technology, aerospace,
9 automotive, biotechnology, software, environmental sources, and
10 others, to locate and invest in those facilities in California.

11 (a) Commencing in the 1998–99 fiscal year, the governing body
12 of a county, city and county, or city, may, by means of an ordinance
13 or resolution approved by a majority of its entire membership,
14 elect to establish a capital investment incentive program. In any
15 county, city and county, or city in which the governing body has
16 so elected, the county, city and county, or city shall, upon the
17 approval by a majority of the entire membership of its governing
18 body of a written request therefor, pay a capital investment
19 incentive amount to the proponent of a qualified manufacturing
20 facility for up to 15 consecutive fiscal years. A request for the
21 payment of capital investment incentive amounts shall be filed by
22 a proponent in writing with the governing body of an electing
23 county, city and county, or city in the time and manner specified
24 in procedures adopted by that governing body. In the case in which
25 the governing body of an electing county, city and county, or city
26 approves a request for the payment of capital investment incentive
27 amounts, both of the following conditions shall apply:

28 (1) The consecutive fiscal years during which a capital
29 investment incentive amount is to be paid shall commence with
30 the first fiscal year commencing after the date upon which the
31 qualified manufacturing facility is certified for occupancy or, if
32 no certification is issued, the first fiscal year commencing after
33 the date upon which the qualified manufacturing facility
34 commences operation.

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

39 (b) For purposes of this section:

1 (1) ~~“Qualified manufacturing facility” means a proposed~~
2 ~~manufacturing facility that meets all of the following criteria:~~

3 (A) ~~The proponent’s initial investment in that facility, in real~~
4 ~~and personal property, necessary for the full and normal operation~~
5 ~~of that facility, made pursuant to the capital investment incentive~~
6 ~~program, that comprises any portion of that facility or has its situs~~
7 ~~at that facility, exceeds one hundred fifty million dollars~~
8 ~~(\$150,000,000). Compliance with this subparagraph shall be~~
9 ~~certified by the Governor’s Office of Business and Economic~~
10 ~~Development upon the agency’s approval of a proponent’s~~
11 ~~application for certification of a qualified manufacturing facility.~~
12 ~~An application for certification shall be submitted by a proponent~~
13 ~~to the agency in writing in the time and manner as specified by~~
14 ~~the agency.~~

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

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

19 (i) ~~A business described in Codes 3500 to 3899, inclusive, of~~
20 ~~the Standard Industrial Classification (SIC) Manual published by~~
21 ~~the United States Office of Management and Budget, 1987 edition,~~
22 ~~except that “January 1, 1997,” shall be substituted for “January 1,~~
23 ~~1994,” in each place in which it appears.~~

24 (ii) ~~A business engaged in the recovery of minerals from~~
25 ~~geothermal resources, including the proportional amount of a~~
26 ~~geothermal electric generating plant that is integral to the recovery~~
27 ~~process by providing electricity for it.~~

28 (iii) ~~A business engaged in the manufacturing of parts or~~
29 ~~components related to the production of electricity using solar,~~
30 ~~wind, biomass, hydropower, or geothermal resources on or after~~
31 ~~July 1, 2010.~~

32 (D) ~~The proponent is either currently engaged in commercial~~
33 ~~production or engaged in the perfection of the manufacturing~~
34 ~~process, or the perfection of a product intended to be manufactured.~~

35 (2) ~~“Proponent” means a party or parties that meet all of the~~
36 ~~following criteria:~~

37 (A) ~~The party is named in the application to the county, city~~
38 ~~and county, or city within which the qualified manufacturing~~
39 ~~facility would be located for a permit to construct a qualified~~
40 ~~manufacturing facility.~~

1 ~~(B) The party will be the fee owner of the qualified~~
2 ~~manufacturing facility upon the completion of that facility.~~
3 ~~Notwithstanding the previous sentence, the party may enter into~~
4 ~~a sale-leaseback transaction and nevertheless be considered the~~
5 ~~proponent.~~

6 ~~(C) If a proponent that is receiving capital investment incentive~~
7 ~~amounts subsequently leases the subject qualified manufacturing~~
8 ~~facility to another party, the lease may provide for the payment to~~
9 ~~that lessee of any portion of a capital investment incentive amount.~~
10 ~~Any lessee receiving any portion of a capital investment incentive~~
11 ~~amount shall also be considered a proponent for the purposes of~~
12 ~~subdivision (d).~~

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

20 ~~(4) “Manufacturing” means the activity of converting or~~
21 ~~conditioning property by changing the form, composition, quality,~~
22 ~~or character of the property for ultimate sale at retail or use in the~~
23 ~~manufacturing of a product to be ultimately sold at retail.~~
24 ~~Manufacturing includes any improvements to tangible personal~~
25 ~~property that result in a greater service life or greater functionality~~
26 ~~than that of the original property.~~

27 ~~(e) A city or special district may, upon the approval by a~~
28 ~~majority of the entire membership of its governing body, pay to~~
29 ~~the county, city and county, or city an amount equal to the amount~~
30 ~~of ad valorem property tax revenue allocated to that city or special~~
31 ~~district, but not the actual allocation, derived from the taxation of~~
32 ~~that portion of the total assessed value of that real and personal~~
33 ~~property described in subparagraph (A) of paragraph (1) of~~
34 ~~subdivision (b) that is in excess of one hundred fifty million dollars~~
35 ~~(\$150,000,000).~~

36 ~~(d) A proponent whose request for the payment of capital~~
37 ~~investment incentive amounts is approved by an electing county,~~
38 ~~city and county, or city shall enter into a community services~~
39 ~~agreement with that county, city and county, or city that includes,~~
40 ~~but is not limited to, all of the following provisions:~~

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

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

12 ~~(3) A provision specifying the procedures and rules for the~~
13 ~~determination of underpayments or overpayments of a community~~
14 ~~services fee, for the appeal of determinations of any underpayment,~~
15 ~~and for the refunding or crediting of any overpayment.~~

16 ~~(4) A provision specifying that a proponent is ineligible to~~
17 ~~receive a capital investment incentive amount if that proponent is~~
18 ~~currently delinquent in the payment of any portion of a community~~
19 ~~services fee amount, if the qualified manufacturing facility is~~
20 ~~constructed in a manner materially different from the facility as~~
21 ~~described in building permit application materials, or if the facility~~
22 ~~is no longer operated as a qualified manufacturing facility meeting~~
23 ~~the requirements of paragraph (1) of subdivision (b). If a proponent~~
24 ~~becomes ineligible to receive a capital investment incentive amount~~
25 ~~as a result of an agreement provision included pursuant to this~~
26 ~~subparagraph, the running of the number of consecutive fiscal~~
27 ~~years specified in an agreement made pursuant to subdivision (a)~~
28 ~~is not tolled during the period in which the proponent is ineligible.~~

29 ~~(5) A provision that sets forth a job creation plan with respect~~
30 ~~to the relevant qualified manufacturing facility. The plan shall~~
31 ~~specify the number of jobs to be created by that facility, and the~~
32 ~~types of jobs and compensation ranges to be created thereby. The~~
33 ~~plan shall also specify that for the entire term of the community~~
34 ~~services agreement, both of the following shall apply:~~

35 ~~(A) All of the employees working at the qualified manufacturing~~
36 ~~facility shall be covered by an employer-sponsored health benefits~~
37 ~~plan.~~

38 ~~(B) The average weekly wage, exclusive of overtime, paid to~~
39 ~~all of the employees working at the qualified manufacturing~~

1 facility, who are not management or supervisory employees, shall
2 be not less than the state average weekly wage.

3 For the purpose of this subdivision, “state average weekly wage”
4 means the average weekly wage paid by employers to employees
5 covered by unemployment insurance, as reported to the
6 Employment Development Department for the four calendar
7 quarters ending June 30 of the preceding calendar year.

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

13 (i) All of the capital investment incentive amounts paid to the
14 proponent, less all of the community services fees received from
15 the proponent, and less any capital investment incentive amounts
16 previously recaptured.

17 (ii) The last capital investment incentive amount paid to the
18 proponent, less the last community services fee received from the
19 proponent, multiplied by 40 percent of the number of years
20 remaining in the community services agreement, but not to exceed
21 10 years, and less any capital investment incentive amounts
22 previously recaptured.

23 (B) If the proponent fails to operate the qualified manufacturing
24 facility as required by the community services agreement, the
25 county, city and county, or city may, upon a finding that good
26 cause exists, waive any portion of the recapture of any capital
27 investment incentive amount due under this subdivision. For the
28 purpose of this subdivision, good cause includes, but is not limited
29 to, the following:

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

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

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

1 ~~(e) (1) Each county, city and county, or city that elects to~~
 2 ~~establish a capital investment incentive program shall notify the~~
 3 ~~Governor's Office of Business and Economic Development of its~~
 4 ~~election to do so no later than June 30th of the fiscal year in which~~
 5 ~~the election was made.~~

6 ~~(2) In addition to the information required to be reported~~
 7 ~~pursuant to paragraph (1), each county, city and county, or city~~
 8 ~~that has elected to establish a capital investment incentive program~~
 9 ~~shall notify the Governor's Office of Business and Economic~~
 10 ~~Development each fiscal year no later than June 30th of the amount~~
 11 ~~of any capital investment incentive payments made and the~~
 12 ~~proponent of the qualified manufacturing facility to whom the~~
 13 ~~payments were made during that fiscal year.~~

14 ~~(3) The Governor's Office of Business and Economic~~
 15 ~~Development shall compile the information submitted by each~~
 16 ~~county, city and county, and city pursuant to paragraphs (1) and~~
 17 ~~(2) and submit a report to the Legislature containing this~~
 18 ~~information no later than October 1, every two years commencing~~
 19 ~~October 1, 2000.~~

20 ~~SEC. 47:~~

21 ~~SEC. 46.~~ Section 65040.9 of the Government Code is amended
 22 to read:

23 65040.9. (a) On or before January 1, 2004, the Office of
 24 Planning and Research shall, if sufficient federal funds become
 25 available for this purpose, prepare and publish an advisory planning
 26 handbook for use by local officials, planners, and builders that
 27 explains how to reduce land use conflicts between the effects of
 28 civilian development and military readiness activities carried out
 29 on military installations, military operating areas, military training
 30 areas, military training routes, and military airspace, and other
 31 territory adjacent to those installations and areas.

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

- 34 (1) The collection and preparation of data and analysis.
- 35 (2) The preparation and adoption of goals, policies, and
 36 standards.
- 37 (3) The adoption and monitoring of feasible implementation
 38 measures.
- 39 (4) Methods to resolve conflicts between civilian and military
 40 land uses and activities.

1 (5) Recommendations for cities and counties to provide drafts
2 of general plan and zoning changes that may directly impact
3 military facilities, and opportunities to consult with the military
4 base personnel prior to approving development adjacent to military
5 facilities.

6 (c) In preparing the advisory planning handbook, the office shall
7 consult with persons and organizations with knowledge and
8 experience in land use issues affecting military installations and
9 activities.

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

12 ~~SEC. 48.~~

13 *SEC. 47.* Section 66620 of the Government Code is amended
14 to read:

15 66620. The San Francisco Bay Conservation and Development
16 Commission is hereby created. The commission shall consist of
17 27 members, as follows:

18 (a) One member appointed by the Division Engineer, United
19 States Army Engineers, South Pacific Division, from his or her
20 staff.

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

23 (c) One member appointed by the Secretary of Transportation
24 from his or her staff.

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

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

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

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

33 (h) Nine county representatives consisting of one member of
34 the board of supervisors representative of each of the nine San
35 Francisco Bay area counties, appointed by the board of supervisors
36 in each county. Each county representative shall be a supervisor
37 representing a supervisorial district which includes within its
38 boundaries lands lying within San Francisco Bay.

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

- 4 (1) North Bay—Marin, Sonoma, Napa, and Solano Counties;
- 5 (2) East Bay—Contra Costa County (west of Pittsburg) and
 6 Alameda County north of the southern boundary of Hayward;
- 7 (3) South Bay—Alameda County south of the southern
 8 boundary of Hayward, Santa Clara County, and San Mateo
 9 County south of the northern boundary of Redwood City;
- 10 (4) West Bay—San Mateo County north of the northern
 11 boundary of Redwood City, and the City and County of San
 12 Francisco.

13 Each city representative shall be an elected city official.

14 (j) Seven representatives of the public, who shall be residents
 15 of the San Francisco Bay area. Five of the representatives shall be
 16 appointed by the Governor and their appointments shall be subject
 17 to confirmation by the Senate. One of the representatives shall be
 18 appointed by the Committee on Rules of the Senate, and one by
 19 the Speaker of the Assembly.

20 ~~SEC. 49:~~

21 *SEC. 48.* Section 44272.5 of the Health and Safety Code is
 22 amended to read:

23 44272.5. (a) The commission shall develop and adopt an
 24 investment plan to determine priorities and opportunities for the
 25 Alternative and Renewable Fuel and Vehicle Technology Program
 26 created pursuant to this chapter. The investment plan shall establish
 27 priorities for investment of funds and technologies to achieve the
 28 goals of this chapter and describe how funding will complement
 29 existing public and private investments, including existing state
 30 programs that further the goals of this chapter. The commission
 31 shall create and consult with an advisory body as it develops the
 32 investment plan. The advisory body is subject to the Bagley-Keene
 33 Open Meeting Act (Article 9 (commencing with Section 11120)
 34 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
 35 Code). The commission shall, at a minimum, hold one public
 36 hearing on the advisory body’s recommendations prior to approving
 37 the investment plan.

38 (b) Membership of the advisory body created pursuant to
 39 subdivision (a) shall include, but is not limited to, representatives
 40 of fuel and vehicle technology entities, labor organizations,

1 environmental organizations, community-based justice and public
2 health organizations, recreational boaters, consumer advocates,
3 academic institutions, workforce training groups, and private
4 industry. The advisory body shall also include representatives from
5 the Resources Agency, the Transportation Agency, the Labor and
6 Workforce Development Agency, and the California Environmental
7 Protection Agency.

8 (c) The commission shall hold at least three public workshops
9 in different regions of the state and one public hearing prior to
10 approving the investment plan. The commission shall annually
11 update and approve the plan. The commission shall reconvene and
12 consult with the advisory body created pursuant to subdivision (a)
13 prior to annually updating and approving the plan.

14 ~~SEC. 50.~~

15 *SEC. 49.* Section 12414.31 of the Insurance Code is amended
16 to read:

17 12414.31. (a) (1) Whenever the commissioner takes any
18 formal enforcement or disciplinary action directly against an
19 employee of a title insurer, underwritten title company, or
20 controlled escrow company, for malfeasance or misconduct
21 committed by the employee in his or her performance of
22 escrow-related services, upon the action becoming final the
23 commissioner shall notify the Real Estate Commissioner and the
24 Commissioner of Business Oversight of the action or actions taken.
25 The purpose of this notification is to alert the departments that
26 enforcement or disciplinary action has been taken, if the employee
27 seeks or obtains employment with entities regulated by the
28 departments.

29 (2) The commissioner shall provide the Real Estate
30 Commissioner and the Commissioner of Business Oversight, in
31 addition to the notification of the action taken, with a copy of the
32 written accusation, statement of issues, or order issued or filed in
33 the matter and, at the request of the Real Estate Commissioner or
34 Commissioner of Business Oversight, with any underlying factual
35 material relevant to the enforcement or disciplinary action. Any
36 confidential information provided by the commissioner to the
37 Commissioner of Business Oversight or the Real Estate
38 Commissioner shall not be made public pursuant to this section.
39 Notwithstanding any other law, the disclosure of any underlying
40 factual material to the Commissioner of Business Oversight or the

1 Real Estate Commissioner shall not operate as a waiver of
2 confidentiality or any privilege that the commissioner may assert.

3 (b) The commissioner shall establish and maintain, on the
4 *Internet* Web site maintained by the Department of Insurance, a
5 separate and readily identifiable database of all persons who have
6 been subject to any enforcement or disciplinary action that triggers
7 the notification requirements of this section. The database shall
8 also contain a direct link to the databases, described in Section
9 10176.1 of the Business and Professions Code and Section 17423.1
10 of the Financial Code and required to be maintained on the *Internet*
11 Web sites of the Bureau of Real Estate and the Department of
12 Business Oversight, respectively, of persons who have been subject
13 to enforcement or disciplinary action for malfeasance or
14 misconduct related to the escrow industry by the Commissioner
15 of Business Oversight and the Real Estate Commissioner.

16 (c) There shall be no liability on the part of, and no cause of
17 action of any nature shall arise against, the State of California, the
18 Department of Insurance, the Insurance Commissioner, any other
19 state agency, or any officer, agent, employee, consultant, or
20 contractor of the state, for the release of any false or unauthorized
21 information pursuant to this section, unless the release of that
22 information was done with knowledge and malice, or for the failure
23 to release any information pursuant to this section.

24 ~~SEC. 51.~~

25 *SEC. 50.* Section 12710 of the Insurance Code is amended to
26 read:

27 12710. The California Major Risk Medical Insurance Program
28 is hereby created in the Health and Welfare Agency. The program
29 shall be managed by the Major Risk Medical Insurance Board.
30 The board shall consist of seven members, five of whom shall be
31 appointed as follows:

32 The Governor shall appoint three members, subject to
33 confirmation by the Senate, and shall designate one of these
34 appointees as chair of the board. The Senate Committee on Rules
35 shall appoint one member. The Speaker of the Assembly shall
36 appoint one member. The terms of appointment shall be four years.

37 The Secretary of California Health and Human Services, or his
38 or her designee, shall serve on the board as *ex officio*, nonvoting
39 members.

1 The board shall appoint an executive director for the board, who
2 shall serve at the pleasure of the board. The executive director
3 shall receive the salary established by the Department of Human
4 Resources for exempt officials. The executive director shall
5 administer the affairs of the board as directed by the board, and
6 shall direct the staff of the board. The executive director may
7 appoint, with the approval of the board, staff necessary to carry
8 out the provisions of this part.

9 ~~SEC. 52.~~

10 *SEC. 51.* Section 2802 of the Penal Code is amended to read:

11 2802. Commencing July 1, 2005, there is hereby continued in
12 existence within the Department of Corrections and Rehabilitation
13 a Prison Industry Board. The board shall consist of the following
14 11 members:

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

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

19 (c) The Secretary of Transportation, or his or her designee.

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

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

24 (f) The Governor shall appoint four members. Of these, two
25 shall be representatives of organized labor, and two shall be
26 representatives of industry. The initial term of one of the members
27 appointed by the Speaker of the Assembly shall be two years, and
28 the initial term of the other shall be three years. The initial term
29 of one of the members appointed by the Senate Committee on
30 Rules shall be two years, and the initial term of the other shall be
31 three years. The initial terms of the four members appointed by
32 the Governor shall be four years. All subsequent terms of all
33 members shall be for four years. Each member's term shall
34 continue until the appointment and qualification of his or her
35 successor.

36 ~~SEC. 53.~~

37 *SEC. 52.* Section 22003 of the Public Utilities Code is amended
38 to read:

1 22003. Unless the context otherwise requires, the definitions
2 and general provisions contained in this chapter govern the
3 construction of this part.

4 ~~SEC. 54.~~

5 *SEC. 53.* Section 22553.2 of the Public Utilities Code is
6 repealed.

O