

## Assembly Bill No. 2763

### CHAPTER 401

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, 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.

[Approved by Governor September 18, 2014. Filed with  
Secretary of State September 18, 2014.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2763, 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.

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

SECTION 1. Section 10176.1 of the Business and Professions Code is amended to read:

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

(2) The commissioner shall provide the Insurance Commissioner and the Commissioner of Business Oversight, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Insurance Commissioner or the Commissioner of Business Oversight, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Insurance Commissioner or the Commissioner of Business Oversight shall not be made public pursuant to this section. Notwithstanding any other provision

of law, the disclosure of any underlying factual material to the Insurance Commissioner or the Commissioner of Business Oversight shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

(b) The commissioner shall establish and maintain, on the Web site maintained by the Bureau of Real Estate, a database of its licensees, including those who have been subject to any enforcement or disciplinary action that triggers the notification requirements of this section. The database shall also contain a direct link to the databases, described in Section 17423.1 of the Financial Code and Section 12414.31 of the Insurance Code and required to be maintained on the Web sites of the Department of Business Oversight and the Department of Insurance, respectively, of persons who have been subject to enforcement or disciplinary action for malfeasance or misconduct related to the escrow industry by the Insurance Commissioner and the Commissioner of Business Oversight.

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

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

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

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

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

(1) "Airport concession fee" means a charge collected by a rental company from a renter that is the renter's proportionate share of the amount paid by the rental company to the owner or operator of an airport for the

right or privilege of conducting a vehicle rental business on the airport's premises.

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

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

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

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

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

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

(A) At the time the quote is given, provide the person receiving the quote with a good faith estimate of the rental rate, taxes, customer facility charge, if any, airport concession fee, if any, and tourism commission assessment, if any, as well as the total charges for the entire rental. The total charges, if provided on an Internet Web site, shall be displayed in a typeface at least as large as any rental rate disclosed on that page and shall be provided on a page that the person receiving the quote may reach by following links through no more than two Internet Web site pages, including the page on which the rental rate is first provided. The good faith estimate may exclude mileage charges and charges for optional items that cannot be determined prior to completing the reservation based upon the information provided by the person.

(B) At the time and place the rental commences, clearly and conspicuously disclose in the rental contract, or that portion of the contract that is provided to the renter, the total of the rental rate, taxes, customer

facility charge, if any, airport concession fee, if any, and tourism commission assessment, if any, for the entire rental, exclusive of charges that cannot be determined at the time the rental commences. Charges imposed pursuant to this subparagraph shall be no more than the amount of the quote provided in a confirmed reservation, unless the person changes the terms of the rental contract subsequent to making the reservation.

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

(4) In addition to the rental rate, taxes, customer facility charges, if any, airport concession fees, if any, tourism commission assessments, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge, include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

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

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

(7) (A) When a rental rate is stated in an advertisement, in connection with a car rental at an airport where a customer facility charge is imposed, the rental company shall clearly disclose the existence and amount of the customer facility charge. For the purposes of this subparagraph, advertisements include radio, television, other electronic media, and print advertisements. If the rental rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of charges may be stated in the advertisement. However, all rental rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free telephone number whereby a

customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

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

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

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

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

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

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

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

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

(b) After a trustee's deed upon sale has been recorded, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall be liable to a borrower for actual economic damages pursuant to Section 3281, resulting from a material violation of Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or 2924.17 by that mortgage servicer, mortgagee,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

580d. (a) Except as provided in subdivision (b), no deficiency shall be owed or collected, and no deficiency judgment shall be rendered for a deficiency on a note secured by a deed of trust or mortgage on real property or an estate for years therein executed in any case in which the real property

or estate for years therein has been sold by the mortgagee or trustee under power of sale contained in the mortgage or deed of trust.

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

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

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

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

(1) The physical address of the central location.

(2) The days and hours during which service will be accepted at the central location.

(3) If the central location will not accept service of legal process directed at deposit accounts maintained or property held at all of the financial institution’s branches or offices within this state, or if the service accepted at the central location will not apply to safe-deposit boxes or other property of the judgment debtor held by or for the judgment debtor, the filing shall also contain sufficient information to permit a determination of the limitation or limitations, including, in the case of a limitation applicable to certain branches or offices, an identification of the branches or offices as to which service at the central location will not apply and the nature of the limitation applicable to those branches or offices. If the limitation will apply to all branches or offices of the financial institution within this state, the filing may indicate the nature of the limitation and that it applies to all branches or offices, in lieu of an identification of branches or offices as to which the limitation applies. To the extent that a financial institution’s designation of a central location for service of legal process covers the process directed at deposit accounts, safe-deposit boxes, or other property of the judgment debtor held by or for the judgment debtor at a particular branch or office located within this state, the branch or office shall be a branch or office covered by central process.

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

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

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

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

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

(f) As to deposit accounts maintained or property held for safekeeping, as collateral for an obligation owed to the financial institution or in a safe-deposit box at a branch or office covered by central process, service of legal process at a location other than a central location designated by the

financial institution shall not be effective unless the financial institution, in its absolute discretion, elects to act upon the process at that location as if it were effective. In the absence of an election, the financial institution may respond to the legal process by mailing or delivery of the garnishee's memorandum to the levying officer within the time otherwise provided therefor, with a statement on the garnishee's memorandum that the legal process was not properly served at the financial institution's designated location for receiving legal process, and, therefore, was not processed, and the address at which the financial institution is to receive legal process.

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

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

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

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

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

(4) The address of the requesting party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

201. (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee," or related words appear, unless the certificate of approval of the Commissioner of Business Oversight is attached thereto. This subdivision does not apply to the articles of any corporation subject to the Banking Law on which is endorsed the approval of the Commissioner of Business Oversight.

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

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

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

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

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

2510. "Flexible purpose corporation subject to the Banking Law" means any of the following:

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

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

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

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

(e) Any flexible purpose corporation that, with the approval of the Commissioner of Business Oversight, is incorporated for the purpose of

engaging in, or that is authorized by the Commissioner of Business Oversight to engage in, business under Article 1 (commencing with Section 1850) of Chapter 21 of Division 1.1 of the Financial Code.

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

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

(b) The Secretary of State shall not file articles that set forth a name that is likely to mislead the public or that is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a domestic flexible purpose corporation, or the name of a foreign corporation that is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name that a foreign corporation has assumed under subdivision (b) of Section 2106, a name that will become the record name of a corporation or flexible purpose corporation or a foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110 or subdivision (c) of Section 5008, or a name that is under reservation for another corporation or flexible purpose corporation pursuant to this title, except that a flexible purpose corporation may adopt a name that is substantially the same as an existing corporation or flexible purpose corporation, foreign or domestic, which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by the domestic or foreign corporation or flexible purpose corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled. The use by a flexible purpose corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

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

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

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

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

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

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

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

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

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

(c) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106, a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110, or subdivision (c) of Section 5008, or a name which is under reservation

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

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

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

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

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

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

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

(c) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (b), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the

same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (b).

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

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

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

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

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

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

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

(b) There is in the Department of Business Oversight, the Division of Financial Institutions under the direction of the Senior Deputy Commissioner for the Division of Financial Institutions. The senior deputy commissioner

has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions.

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

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

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

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

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

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

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

"If you have complaints with respect to any aspect of the money transmission activities conducted at this location, you may contact the Department of Business Oversight at its toll-free telephone number 1-800-275-2677, its Internet Web site at [www.dbo.ca.gov/Consumer/consumer\\_services.asp](http://www.dbo.ca.gov/Consumer/consumer_services.asp), or by mail at Department of Business Oversight, Consumer Services, 1515 K Street, Suite 200, Sacramento, CA 95814."

(b) The commissioner may by order or regulation modify the content of the notice required by this section. This notice shall be printed in English and in the same language principally used by the licensee or any agent of the licensee to advertise, solicit, or negotiate either orally or in writing, with respect to money transmission at that branch office. The information required

in this notice shall be clear, legible, and in letters not less than one-half inch in height. The notice shall be posted in a conspicuous location in the unobstructed view of the public within the premises. The licensee shall provide to each of its agents the notice required by this section. In those locations operated by an agent, the agent, and not the licensee, shall be responsible for the failure to properly post the required notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

18002.5. “Department” means the Department of Business Oversight.

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

18022.5. An industrial loan company may organize, sponsor, operate, control, or render investment advice to, an investment company, or underwrite, distribute, or sell securities of any investment company which has qualified to sell its securities in this state pursuant to Part 2 (commencing with Section 25100) of Division 1, Title 4 of the Corporations Code, if the

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

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

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

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

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

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

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

(e) "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government entity, or a political subdivision of a government entity.

(f) "Deferred deposit originator" means a person who offers, originates, or makes a deferred deposit transaction.

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

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

This section, however, shall not apply to disclosures:

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

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

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

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

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

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

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

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

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

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

7465. For the purposes of this chapter:

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

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

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

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

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

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

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

- (1) The Department of Business Oversight.
- (2) The Controller.
- (3) The Administrator of Local Agency Security.
- (4) The Bureau of Real Estate.
- (5) The Department of Insurance.

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

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

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

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

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

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

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

(b) (1) In issuing an administrative subpoena or summons pursuant to subdivision (a), the Attorney General or the Commissioner of Business Oversight pursuant to the enforcement of statutes within his or her jurisdiction, or the district attorney of any county in connection with investigations of violations of antitrust law as authorized by Section 16759 of the Business and Professions Code, may petition a court of competent jurisdiction in the county in which the records are located, and the court, upon a showing of a reasonable inference that a law subject to the jurisdiction of the petitioning agency has been or is about to be violated, may order that service upon the customer pursuant to paragraph (1) of subdivision (a) and

the 10-day period provided for in paragraph (3) of subdivision (a) be waived or shortened. For the purpose of this subdivision, an “inference” is a deduction that may reasonably be drawn by the Attorney General, the Commissioner of Business Oversight, or the district attorney from facts relevant to the investigation.

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

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

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

(c) Except as provided in this subdivision, nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpoena. A court may order a financial institution to withhold notification to a customer of the receipt of an administrative summons or subpoena when the court issues an order pursuant to subdivision (b) and makes a finding that notice to the customer by the financial institution would impede the investigation.

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

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

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

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

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

- (1) The number of items dishonored.
- (2) The number of items paid that created overdrafts.
- (3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.
- (4) The dates and amounts of deposits and debits and the account balance on these dates.
- (5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.
- (6) The date the account opened and, if applicable, the date the account closed.
- (7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution for dates on which illegal acts involving the account were alleged to have occurred. Nothing in this paragraph does any of the following:
  - (A) Requires a financial institution to produce a photograph or video recording if it does not possess the photograph or video recording.
  - (B) Affects any existing civil immunities as provided in Section 47 of the Civil Code or any other provision of law.
- (8) A bank, credit union, or savings association that provides the requesting party with copies of one or more complete account statements prepared in the regular course of business shall be deemed to be in compliance with paragraphs (1), (2), (3), and (4).

(c) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association doing business in this state, the police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, may request, with the consent of the

account holder, the bank, credit union, or savings association to furnish, and the bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the requesting party for a period 30 days prior to, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:

- (1) The number of items dishonored.
- (2) The number of items paid that created overdrafts.
- (3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.
- (4) The dates and amounts of deposits and debits and the account balance on these dates.
- (5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.
- (6) The date the account opened and, if applicable, the date the account closed.
- (7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution for dates on which illegal acts involving this account were alleged to have occurred. Nothing in this paragraph does any of the following:
  - (A) Requires a financial institution to produce a photograph or video recording if it does not possess the photograph or video recording.
  - (B) Affects any existing civil immunities as provided in Section 47 of the Civil Code or any other provision of law.
- (8) A bank, credit union, or savings association doing business in this state that provides the requesting party with copies of one or more complete account statements prepared in the regular course of business shall be deemed to be in compliance with paragraphs (1), (2), (3), and (4).
  - (d) For purposes of subdivision (c), consent of the account holder shall be satisfied if an account holder provides to the financial institution and the person or entity seeking disclosure, a signed and dated statement containing all of the following:
    - (1) Authorization of the disclosure for the period specified in subdivision (c).
    - (2) The name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained.
    - (3) A description of the financial records that are authorized to be disclosed.
  - (e) (1) The Attorney General, a supervisory agency, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller, or an inheritance tax referee when administering the Prohibition of Gift and Death Taxes (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), a police or sheriff's department or district attorney, a county adult protective services office

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

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

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

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

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

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

(3) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Form 599.

(ii) Form 1099.

(iii) A bank statement.

(iv) A check.

(v) A bank passbook.

(vi) A deposit slip.

(vii) A copy of a federal or state income tax return.

(viii) A debit or credit advice.

(ix) Correspondence that identifies the child support obligor by name, the bank, and the account number.

(x) Correspondence that identifies the child support obligor by name, the bank, and the banking services related to the account of the obligor.

(xi) An asset identification report from a federal agency.

(B) A sworn declaration of the custodial parent during the 12 months immediately preceding the request that the person named in the request has had or may have had an account at an office or branch of the financial institution to which the request is made.

(7) Information obtained by a local child support agency pursuant to this subdivision shall be used only for purposes that are directly connected with the administration of the duties of the local child support agency pursuant to Section 17400 of the Family Code.

(m) (1) As provided in paragraph (1) of subdivision (c) of Section 666 of Title 42 of the United States Code, upon receipt of an administrative subpoena on the current federally approved interstate child support enforcement form, as approved by the federal Office of Management and Budget, a financial institution shall provide the information or documents requested by the administrative subpoena.

(2) The administrative subpoena shall refer to the current federal Office of Management and Budget control number and be signed by a person who states that he or she is an authorized agent of a state or county agency responsible for implementing the child support enforcement program set forth in Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code. A financial institution may rely on the statements made in the subpoena and has no duty to inquire into the truth of any statement in the subpoena.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) When the governing board of the Public Employees' Retirement System or the State Teachers' Retirement System certifies in writing to a financial institution that a benefit recipient has died and that transfers to the benefit recipient's account at the financial institution from the retirement system occurred after the benefit recipient's date of death, the financial institution shall furnish the retirement system with the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of the benefit recipient's death, or if the account has been closed, the name and address of the person who closed the account.

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

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

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

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

#### PART 4.5. TRANSPORTATION AGENCY

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

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

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

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

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

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

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

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

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

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

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

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

(d) No person may file any action or enforce or create any lien, or cause to be issued, served, or levied any summons, subpoena, attachment, or writ of execution against the receiver or any property subject to the receivership without first obtaining prior court approval upon motion with notice to the receiver and the Commissioner of Business Oversight. Any legal procedure described in this subdivision commenced without prior court approval is void except as to a bona fide purchaser or encumbrancer for value and

without notice of the receivership. No person without notice of the receivership shall incur any liability for commencing or maintaining any legal procedure described by this subdivision.

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

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

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

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

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

13975.2. (a) This section applies to every action brought in the name of the people of the State of California by the Director of the Department of Managed Health Care before, on, or after the effective date of this section, when enforcing provisions of those laws administered by the Director of the Department of Managed Health Care which authorize the Director of the Department of Managed Health Care to seek a permanent or preliminary injunction, restraining order, or writ of mandate, or the appointment of a receiver, monitor, conservator, or other designated fiduciary or officer of the court. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate. The court may order that the expenses and fees of the receiver, monitor, conservator, or other designated fiduciary or officer of the court, be paid from the property held by the receiver, monitor, conservator, or other court-designated fiduciary or officer, but neither the state, the Health and Human Services Agency, nor the Department of Managed Health Care shall be liable for any of those expenses and fees, unless expressly provided for by written contract.

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

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

(2) Take possession of all books, records, and documents relating to any unlawfully obtained property and the proceeds thereof. In addition, they

shall have the same right as a defendant to request, obtain, inspect, copy, and obtain copies of books, records, and documents maintained by third parties that relate to unlawfully obtained property and the proceeds thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The collection and preparation of data and analysis.
- (2) The preparation and adoption of goals, policies, and standards.
- (3) The adoption and monitoring of feasible implementation measures.
- (4) Methods to resolve conflicts between civilian and military land uses and activities.
- (5) Recommendations for cities and counties to provide drafts of general plan and zoning changes that may directly impact military facilities, and opportunities to consult with the military base personnel prior to approving development adjacent to military facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Each city representative shall be an elected city official.

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

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

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

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

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

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

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

(2) The commissioner shall provide the Real Estate Commissioner and the Commissioner of Business Oversight, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Real Estate Commissioner or Commissioner of Business Oversight, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Commissioner of Business Oversight or the Real Estate Commissioner shall not be made public pursuant to this section. Notwithstanding any other law, the disclosure of any underlying factual material to the Commissioner of Business Oversight or the Real Estate Commissioner shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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