

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 820

Introduced by Committee on Governmental Organization (Senators Wright (Chair), Berryhill, Calderon, Cannella, Correa, De León, Galgiani, Hernandez, Lieu, Nielsen, and Padilla)

March 14, 2013

An act to amend Sections *11003.4*, 19821, *19841*, *19861*, *19864*, 19876, 19912, ~~and 19951~~ *19951*, and *19984* of the Business and Professions Code, to amend Sections 1916.12, 1918.5, and 5405 of the Civil Code, to amend Sections 14024, 14025, 14026, 14027, 14028, 14030.2, 14034, 14036, 14037, 14037.5, 14037.7, 14038, 14039, 14040, 14041, 14043, 14061, 14065, 14066, 14070, 14071, 14071.5, 14072, 14074, 14075, 14076, 14085, 14086, 29503, and 31004 of, and to amend the heading of Article 4 (commencing with Section 14025) of Chapter 1 of Part 5 of Division 3 of Title 1 of, the Corporations Code, to amend Sections 300, 301, 320, 326, 350, 353, 4805.055, 5104, 12003, 14003, 14200.1, 14200.2, 17002, 18002, 22005, 30002, 31055, and 50003 of, and to repeal and add Sections 351 and 371 of, the Financial Code, to amend Sections 8684.2, 11532, 11534, 11538, 11539, 11540, 11541, 11542, 11544, 11546, 11549, 11549.1, 11549.3, 12802.8, *13995.20*, 13995.60, 13995.64.5, 13995.65.5, *13995.92*, 13997.7, 14030, 14998.3, 14998.4, 14998.6, 14998.7, 15251, 15277, 53108.5, 53113, 53114, 53114.1, 53114.2, 53115, 53115.1, 53115.2, 53115.3, 53116, 53119, 53120, 53126.5, 53661, ~~and 65040.12~~ *63021.5*, *65040.12*, *91550*, and *99055* of, and to amend the heading of Article 5 (commencing with Section 13995.50) of Chapter 1 of Part 4.7 of Division 3 of Title 2 ~~of~~, and to repeal Section ~~13995.92 of~~, *of* the Government Code, to amend Sections 71.4, 71.7, 72.6, 76.5, 76.6, 82, and 82.3 of the Harbors and Navigation Code, to amend Sections 40448.6 and 44272 of the Health

and Safety Code, to amend Sections ~~326.3~~ 326.3, 326.4, and 326.5 of the Penal Code, to amend Section 25464 of the Public Resources Code, to amend Section 41136 of the Revenue and Taxation Code, and to amend Sections 335, 10200, 10202.5, and 15002 of the Unemployment Insurance Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 820, as amended, Committee on Governmental Organization. State government.

(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 and agencies by creating the following general agency structure in the executive branch: Business, Consumer Services, and Housing; Government Operations; Corrections and Rehabilitation; Labor and Workforce Development; California Health and Human Services; Environmental Protection; Natural Resources; and Transportation. In creating the new general agency structure, existing law and the GRP 2, abolished certain existing state entities and offices, including, among others, the Business, Transportation and Housing Agency and its secretary.

This bill would generally enact the statutory changes to make conforming name changes to properly reflect the assignment and reorganization of the functions of state government among the newly established executive entities and officers ~~and~~, *including, among others, changing the name Department of Real Estate to Bureau of Real Estate.* *This bill would also* reallocate certain duties of abolished executive entities and officers to ~~the~~ newly established *and existing* ones.

(2) Existing law and the GRP 2 transfer the duties and authorities of the Department of Boating and Waterways to the Division of Boating and Waterways in the Department of Parks and Recreation and reallocate specified duties between the division and the Boating and Waterways Commission.

This bill would further modify duties between the division and the commission, including, among others, removing requirements for the consent of the commission for the department to make certain transfers, loans, or grants under various programs and other proposals, as specified.

(3) Existing law and the GRP 2 transfer a requirement that the Business, Transportation and Housing Agency establish small business financial development corporations to the Governor's Office of Business and Economic Development.

This bill would make conforming changes with respect to the transfer of this duty *and transfer other duties generally related to economic development from the abolished agency to the office, as specified.*

(4) Existing law authorizes the State Energy Resources Conservation and Development Commission (Energy Commission) to work with the Business, Transportation and Housing Agency to implement the program funded by federal funds allocated to, and received by, the state for energy-related projects pursuant to the American Recovery and Reinvestment Act of 2009 and other federal acts related to the American Recovery and Reinvestment Act of 2009.

This bill would authorize the Energy Commission to work instead with the Governor's Office of Business and Economic Development.

(5) The California Tourism Marketing Act provides for the establishment of the California Travel and Tourism Commission within the Business, Transportation and Housing Agency.

This bill would remove references to the abolished agency in the act *to transfer certain duties to the Governor's Office of Business and Economic Development*, and delete obsolete provisions.

(6) Existing law and the GRP 2 transfer the California Film Commission and the Film California First Program from the Business, Transportation and Housing Agency to the Governor's Office of Business and Economic Development.

This bill would make administrative changes consistent with that transfer.

(7) The GRP 2 reallocates certain licensing and regulatory functions between the California Gambling Control Commission and the Department of Justice related to gaming.

This bill would reallocate additional functions among the commission ~~to~~ *and* the department, including, among others, requiring the department, rather than the commission, to decide whether the payment of the annual gambling license fee is on an annual or installment basis, *authorizing the department, rather than the commission, to collect certain fees, and requiring the department, rather than the commission, to administer the Charity Bingo Mitigation Fund.*

(8) Existing law and the GRP 2 reallocates certain duties and functions of the Business, Transportation and Housing Agency related

to the small business loan guarantee program, the disaster assistance loan program, the economic adjustment assistance grant, the employment training panel, green collar jobs program, and the film industry.

This bill would further reallocate the duties and functions of this abolished agency with regard to these programs and this industry.

(9) Existing law requires common interest developments to submit specified information, including personal identifying information regarding the president of the association, to the Secretary of State, who is required to make the information available for governmental purposes under specified conditions to certain entities, including, among others, the Business, Transportation and Housing Agency.

This bill would replace the abolished agency with the Business, Consumer Services, and Housing Agency.

(10) Existing law authorizes the Secretary of Business, Transportation and Housing to prescribe specified rules and regulations relating to certain mortgage instruments.

This bill would transfer the duties of the abolished officer with the Secretary of Business, Consumer Services, and Housing.

(11) Existing law authorizes the Governor to, with respect to the Business, Transportation and Housing Agency, appoint a Deputy Secretary of Housing to advise that agency's secretary on housing matters.

The bill would modify the Governor's authorization to appoint a Deputy Secretary of Housing Coordination to serve as the Secretary of Transportation's primary advisor on housing matters, as specified.

(12) Existing law provides that, among other things, the powers and duties of the Department of Transportation include investigating and reporting to the Secretary of Business, Transportation and Housing upon the consistency between housing plans and programs and federal transportation plans and programs.

This bill would instead provide that the Department of Transportation report under these circumstances to the Secretary of Transportation and the Secretary of Business, Consumer Services, and Housing, as specified.

(13) Existing law requires the Director of the Office of Planning and Research to consult with the Secretary of Business, Transportation and Housing, as specified.

This bill would instead require the director to consult with the Secretary of Business, Consumer Services, and Housing under these circumstances, as specified.

(14) The GRP 2 reorganizes the Department of Corporations and the Department of Financial Institutions into divisions under the Department of Business Oversight, within the Business, Consumer Services, and Housing Agency. Under the GRP 2, the executive officer of the Department of Business Oversight is the Commissioner of Business Oversight, and the department's administration includes a Deputy Commissioner of Business Oversight for the Division of Corporations, and a Deputy Commissioner of Business Oversight for the Division of Financial Institutions.

This bill would enact statutory changes to implement the above-described organizational structure by transferring the responsibilities of the Department of Corporations and the Department of Financial Institutions to the newly established Department of Business Oversight and its Division of Corporations and Division of Financial Institutions, headed by Senior Deputy Commissioners and the Office of Credit Unions, as specified. This bill would make other conforming changes to the duties of the Department of Business Oversight *and the Commissioner of Business Oversight* to include additional activities relating to the functions of corporations and financial institutions. The bill would require the Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions to employ legal counsel to act as the attorney for the commissioner under specified circumstances.

(15) The GRP 2 recasts the California Technology Agency as the Department of Technology within the Government Operations Agency.

This bill would make various technical, nonsubstantive conforming changes to further reflect this reorganization. This bill would also designate that the Office of Technology Services and the Office of Information Security, each within the Department of Technology, is managed or under the direction of a chief. This bill would also rename the Public Safety Communications Division, also within the department, as the Public Safety Communications Office.

(16) This bill would become operative on July 1, 2013.

(17) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 11003.4 of the Business and Professions
2 Code is amended to read:

3 11003.4. (a) A “limited-equity housing cooperative” or a
4 “workforce housing cooperative trust” is a corporation that meets
5 the criteria of Section 11003.2 and that also meets the criteria of
6 Sections 817 and 817.1 of the Civil Code, as applicable. Except
7 as provided in subdivision (b), a limited-equity housing or
8 workforce housing cooperative trust shall be subject to all the
9 requirements of this chapter pertaining to stock cooperatives.

10 (b) A limited-equity housing cooperative or a workforce housing
11 cooperative trust shall be exempt from the requirements of this
12 chapter if the limited-equity housing cooperative or workforce
13 housing cooperative trust complies with all the following
14 conditions:

15 (1) The United States Department of Housing and Urban
16 Development, the United States Department of Agriculture, the
17 National Consumers Cooperative Bank, the California Housing
18 Finance Agency, the Public Employees’ Retirement System
19 (PERS), the State Teachers’ Retirement System (STRS), the
20 Department of Housing and Community Development, or the
21 Federal Home Loan Bank System or any of its member institutions,
22 alone or in any combination with each other, or with the city,
23 county, school district, or redevelopment agency in which the
24 cooperative is located, directly finances or subsidizes at least 50
25 percent of the total construction or development cost or one
26 hundred thousand dollars (\$100,000), whichever is less; or the real
27 property to be occupied by the cooperative was sold or leased by
28 the Department of Transportation, other state agency, a city, a
29 county, or a school district for the development of the cooperative
30 and has a regulatory agreement approved by the Department of
31 Housing and Community Development for the term of the
32 permanent financing, notwithstanding the source of the permanent
33 subsidy or financing.

34 (2) No more than 20 percent of the total development cost of a
35 limited-equity mobilehome park, and no more than 10 percent of
36 the total development cost of other limited-equity housing
37 cooperatives, is provided by purchasers of membership shares.

1 (3) A regulatory agreement that covers the cooperative for a
2 term of at least as long as the duration of the permanent financing
3 or subsidy, notwithstanding the source of the permanent subsidy
4 or financing has been duly executed between the recipient of the
5 financing and either (A) one of the federal or state agencies
6 specified in paragraph (1) or (B) a local public agency that is
7 providing financing for the project under a regulatory agreement
8 meeting standards of the Department of Housing and Community
9 Development. The regulatory agreement shall make provision for
10 at least all of the following:

11 (A) Assurances for completion of the common areas and
12 facilities to be owned or leased by the limited-equity housing
13 cooperative, unless a construction agreement between the same
14 parties contains written assurances for completion.

15 (B) Governing instruments for the organization and operation
16 of the housing cooperative by the members.

17 (C) The ongoing fiscal management of the project by the
18 cooperative, including an adequate budget, reserves, and provisions
19 for maintenance and management.

20 (D) Distribution of a membership information report to any
21 prospective purchaser of a membership share, prior to purchase
22 of that share. The membership information report shall contain
23 full disclosure of the financial obligations and responsibilities of
24 cooperative membership, the resale of shares, the financing of the
25 cooperative including any arrangements made with any partners,
26 membership share accounts, occupancy restrictions, management
27 arrangements, and any other information pertinent to the benefits,
28 risks, and obligations of cooperative ownership.

29 (4) The federal, state, or local public agency that executes the
30 regulatory agreement shall satisfy itself that the bylaws, articles
31 of incorporation, occupancy agreement, subscription agreement,
32 any lease of the regulated premises, any arrangement with partners,
33 and arrangement for membership share accounts provide adequate
34 protection of the rights of cooperative members.

35 (5) The federal or state agency shall receive from the attorney
36 for the recipient of the financing or subsidy a legal opinion that
37 the cooperative meets the requirements of Section 817 of the Civil
38 Code and the exemption provided by this section.

39 (c) Any limited-equity cooperative, or workforce housing
40 cooperative trust that meets the requirements for exemption

1 pursuant to subdivision (b) may elect to be subject to all provisions
2 of this chapter.

3 (d) The developer of the cooperative shall notify the ~~Department~~
4 ~~of Real Estate, Bureau of Real Estate~~, on a form provided by the
5 ~~department, bureau~~, that an exemption is claimed under this
6 section. The ~~Department of Real Estate Bureau of Real Estate~~ shall
7 retain this form for at least four years for statistical purposes.

8 **SECTION 1.**

9 *SEC. 2.* Section 19821 of the Business and Professions Code
10 is amended to read:

11 19821. (a) The commission shall cause to be made and kept
12 a record of all proceedings at regular and special meetings of the
13 commission. These records shall be open to public inspection.

14 (b) The department shall maintain a file of all applications for
15 licenses under this chapter. The commission shall maintain a record
16 of all actions taken with respect to those applications. The file and
17 record shall be open to public inspection.

18 (c) The department and commission may maintain any other
19 files and records as they deem appropriate. Except as provided in
20 this chapter, the records of the department and commission are
21 exempt from disclosure under Chapter 3.5 (commencing with
22 Section 6250) of Division 7 of Title 1 of the Government Code.

23 (d) Except as necessary for the administration of this chapter,
24 no commissioner and no official, employee, or agent of the
25 commission or the department, having obtained access to
26 confidential records or information in the performance of duties
27 pursuant to this chapter, shall knowingly disclose or furnish the
28 records or information, or any part thereof, to any person who is
29 not authorized by law to receive it. A violation of this subdivision
30 is a misdemeanor.

31 (e) Notwithstanding subdivision (k) of Section 1798.24 of the
32 Civil Code, a court shall not compel disclosure of personal
33 information in the possession of the department or the commission
34 to any person in any civil proceeding wherein the department or
35 the commission is not a party, except for good cause and upon a
36 showing that the information cannot otherwise be obtained. This
37 section shall not authorize the disclosure of personal information
38 that is otherwise exempt from disclosure.

39 *SEC. 3.* Section 19841 of the Business and Professions Code
40 is amended to read:

1 19841. The regulations adopted by the commission shall do
2 all of the following:

3 (a) With respect to applications, registrations, investigations,
4 and fees, the regulations shall include, but not be limited to,
5 provisions that do all of the following:

6 (1) Prescribe the method and ~~form~~ *manner* of application and
7 registration.

8 (2) Prescribe the information to be furnished by any applicant,
9 licensee, or registrant concerning, as appropriate, the person's
10 personal history, habits, character, associates, criminal record,
11 business activities, organizational structure, and financial affairs,
12 past or present.

13 (3) Prescribe the information to be furnished by an owner
14 licensee relating to the licensee's gambling employees.

15 (4) Require fingerprinting or other methods of identification of
16 an applicant, licensee, or employee of a licensee.

17 (5) Prescribe the manner and method of collection and payment
18 of fees and issuance of licenses.

19 (b) Provide for the approval of game rules and equipment by
20 the department to ensure fairness to the public and compliance
21 with state laws.

22 (c) Implement the provisions of this chapter relating to licensing
23 and other approvals.

24 (d) Require owner licensees to report and keep records of
25 transactions, including transactions as determined by the
26 department, involving cash or credit. The regulations may include,
27 without limitation, regulations requiring owner licensees to file
28 with the department reports similar to those required by Sections
29 5313 and 5314 of Title 31 of the United States Code, and by
30 Sections 103.22 and 103.23 of Title 31 of the Code of Federal
31 Regulations, and any successor provisions thereto, from financial
32 institutions, as defined in Section 5312 of Title 31 of the United
33 States Code and Section 103.11 of Title 31 of the Code of Federal
34 Regulations, and any successor provisions.

35 (e) Provide for the receipt of protests and written comments on
36 an application by public agencies, public officials, local governing
37 bodies, or residents of the location of the gambling establishment
38 or future gambling establishment.

39 (f) Provide for the disapproval of advertising by licensed
40 gambling establishments that is determined by the department to

1 be deceptive to the public. Regulations adopted by the commission
2 for advertising by licensed gambling establishments shall be
3 consistent with the advertising regulations adopted by the
4 California Horse Racing Board and the Lottery Commission.
5 Advertisement that appeals to children or adolescents or that offers
6 gambling as a means of becoming wealthy is presumptively
7 deceptive.

8 (g) Govern all of the following:

9 (1) The extension of credit.

10 (2) The cashing, deposit, and redemption of checks or other
11 negotiable instruments.

12 (3) The verification of identification in monetary transactions.

13 (h) Prescribe minimum procedures for adoption by owner
14 licensees to exercise effective control over their internal fiscal and
15 gambling affairs, which shall include, but not be limited to,
16 provisions for all of the following:

17 (1) The safeguarding of assets and revenues, including the
18 recording of cash and evidences of indebtedness.

19 (2) Prescribing the manner in which compensation from games
20 and gross revenue shall be computed and reported by an owner
21 licensee.

22 (3) The provision of reliable records, accounts, and reports of
23 transactions, operations, and events, including reports to the
24 department.

25 (i) Provide for the adoption and use of internal audits, whether
26 by qualified internal auditors or by certified public accountants.
27 As used in this subdivision, “internal audit” means a type of control
28 that operates through the testing and evaluation of other controls
29 and that is also directed toward observing proper compliance with
30 the minimum standards of control prescribed in subdivision (h).

31 (j) Require periodic financial reports from each owner licensee.

32 (k) Specify standard forms for reporting financial conditions,
33 results of operations, and other relevant financial information.

34 (l) Formulate a uniform code of accounts and accounting
35 classifications to ensure consistency, comparability, and effective
36 disclosure of financial information.

37 (m) Prescribe intervals at which the information in subdivisions
38 (j) and (k) shall be furnished to the department.

39 (n) Require audits to be conducted, in accordance with generally
40 accepted auditing standards, of the financial statements of all owner

1 licensees whose annual gross revenues equal or exceed a specified
2 sum. However, nothing herein shall be construed to limit the
3 department's authority to require audits of any owner licensee.
4 Audits, compilations, and reviews provided for in this subdivision
5 shall be made by independent certified public accountants licensed
6 to practice in this state.

7 (o) Restrict, limit, or otherwise regulate any activity that is
8 related to the conduct of controlled gambling, consistent with the
9 purposes of this chapter.

10 (p) Define and limit the area, games, hours of operation, number
11 of tables, wagering limits, and equipment permitted, or the method
12 of operation of games and equipment, if the commission, upon the
13 recommendation of, or in consultation with, the department,
14 determines that local regulation of these subjects is insufficient to
15 protect the health, safety, or welfare of residents in geographical
16 areas proximate to a gambling establishment.

17 (q) Prohibit gambling enterprises from cashing checks drawn
18 against any federal, state, or county fund, including, but not limited
19 to, social security, unemployment insurance, disability payments,
20 or public assistance payments. However, a gambling enterprise
21 shall not be prohibited from cashing any payroll checks or checks
22 for the delivery of goods or services that are drawn against a
23 federal, state, or county fund.

24 (r) Provide for standards, specifications, and procedures
25 governing the manufacture, distribution, including the sale and
26 leasing, inspection, testing, location, operation, repair, and storage
27 of gambling equipment, and for the licensing of persons engaged
28 in the business of manufacturing, distributing, including the sale
29 and leasing, inspection, testing, repair, and storage of gambling
30 equipment.

31 (s) By December 31, 2011, provide procedures, criteria, and
32 timelines for the processing and approval of applications for the
33 licensing, temporary or interim licensing, or findings of suitability
34 for receivers, trustees, beneficiaries, executors, administrators,
35 conservators, successors in interest, or security interest holders for
36 a gambling enterprise so that gambling enterprises may operate
37 continuously in cases including, but not limited to, the death,
38 insolvency, foreclosure, receivership, or incapacity of a licensee.

39 *SEC. 4. Section 19861 of the Business and Professions Code*
40 *is amended to read:*

1 19861. Notwithstanding subdivision (i) of Section 19801, the
2 commission shall not deny a license to a gambling establishment
3 solely because it is not open to the public, provided that all of the
4 following are true: (a) the gambling establishment is situated in a
5 local jurisdiction that has an ordinance allowing only private clubs,
6 and the gambling establishment was in operation as a private club
7 under that ordinance on December 31, 1997, and met all applicable
8 state and local gaming registration requirements; (b) the gambling
9 establishment consists of no more than five gaming tables; (c)
10 video recordings of the entrance to the gambling room or rooms
11 and all tables situated therein are made during all hours of operation
12 by means of closed-circuit television cameras, and these recordings
13 are retained for a period of 30 days and are made available for
14 review by the department or commission upon request; and (d) the
15 gambling establishment is open to members of the private club
16 and their spouses in accordance with membership criteria in effect
17 as of December 31, 1997.

18 A gambling establishment meeting these criteria, in addition to
19 the other requirements of this chapter, may be licensed to operate
20 as a private club gambling establishment until November 30, 2003,
21 or until the ownership or operation of the gambling establishment
22 changes from the ownership or operation as of January 1, 1998,
23 whichever occurs first. Operation of the gambling establishments
24 after this date shall only be permitted if the local jurisdiction
25 approves an ordinance, pursuant to Sections 19961 and 19962,
26 authorizing the operation of gambling establishments that are open
27 to the public. The commission shall adopt regulations implementing
28 this section. Prior to the commission's issuance of a license to a
29 private club, the department shall ensure that the ownership of the
30 gambling establishment has remained constant since January 1,
31 1998, and the operation of the gambling establishment has not
32 been leased to any third party.

33 *SEC. 5. Section 19864 of the Business and Professions Code*
34 *is amended to read:*

35 19864. (a) Application for a state license or other commission
36 action shall be ~~made~~ *submitted to the department* on forms
37 furnished by the ~~commission~~ *department*.

38 (b) The application for a gambling license shall include all of
39 the following:

40 (1) The name of the proposed licensee.

1 (2) The name and location of the proposed gambling
2 establishment.

3 (3) The gambling games proposed to be conducted.

4 (4) The names of all persons directly or indirectly interested in
5 the business and the nature of the interest.

6 (5) A description of the proposed gambling establishment and
7 operation.

8 (6) Any other information and details the commission may
9 require in order to discharge its ~~duty~~ *duties* properly.

10 ~~SEC. 2.~~

11 *SEC. 6.* Section 19876 of the Business and Professions Code
12 is amended to read:

13 19876. (a) Subject to the power of the commission to deny,
14 revoke, suspend, condition, or limit any license, as provided in
15 this chapter, a license shall be renewed biennially.

16 (b) An application for renewal of a gambling license shall be
17 filed by the owner licensee or key employee with the department
18 no later than 120 calendar days prior to the expiration of the current
19 license. The commission shall act upon any application for renewal
20 prior to the date of expiration of the current license. Upon renewal
21 of any owner license, the commission shall issue an appropriate
22 renewal certificate or validating device or sticker.

23 (c) Notwithstanding the provisions of subdivision (b), if an
24 owner licensee has submitted an application for renewal prior to
25 the original expiration date of the current license and the
26 commission is unable to act on the application prior to the
27 expiration date, the commission may extend the current license
28 for up to 180 days.

29 (d) Unless the commission determines otherwise, renewal of
30 an owner's gambling license shall be deemed to effectuate the
31 renewal of every other gambling license endorsed thereon.

32 (e) In addition to the penalties provided by law, any owner
33 licensee who deals, operates, carries on, conducts, maintains, or
34 exposes for play any gambling game after the expiration date of
35 the gambling license is liable to the state for all license fees and
36 penalties that would have been due upon renewal.

37 (f) If an owner licensee fails to renew the gambling license as
38 provided in this chapter, the commission may order the immediate
39 closure of the premises and a cessation of all gambling activity
40 therein until the license is renewed.

1 (g) If an owner licensee submits an application for renewal of
2 the gambling license after the deadline set in subdivision (b) but
3 before the original expiration date of the license, the commission
4 may assess reasonable delinquency fees not to exceed three times
5 the usual application fee.

6 ~~SEC. 3.~~

7 *SEC. 7.* Section 19912 of the Business and Professions Code
8 is amended to read:

9 19912. (a) (1) A person shall not be employed as a gambling
10 enterprise employee, or serve as an independent agent, except as
11 provided in paragraph (2), unless he or she is the holder of one of
12 the following:

13 (A) A valid work permit issued in accordance with the applicable
14 ordinance or regulations of the county, city, or city and county in
15 which his or her duties are performed.

16 (B) A work permit issued by the commission pursuant to
17 regulations adopted by the commission for the issuance and
18 renewal of work permits. A work permit issued by the commission
19 shall be valid for two years.

20 (2) An independent agent is not required to hold a work permit
21 if he or she is not a resident of this state and has registered with
22 the department in accordance with regulations.

23 (b) A work permit shall not be issued by any city, county, or
24 city and county to any person who would be disqualified from
25 holding a state gambling license for the reasons specified in
26 subdivisions (a) to (g), inclusive, of Section 19859.

27 (c) The department may object to the issuance of a work permit
28 by a city, county, or city and county for any cause deemed
29 reasonable by the department, and if the department objects to
30 issuance of a work permit, the work permit shall be denied.

31 (1) The commission shall adopt regulations specifying particular
32 grounds for objection to issuance of, or refusal to issue, a work
33 permit.

34 (2) The ordinance of any city, county, or city and county relating
35 to issuance of work permits shall permit the department to object
36 to the issuance of any permit.

37 (3) Any person whose application for a work permit has been
38 denied because of an objection by the department may apply to
39 the commission for an evidentiary hearing in accordance with
40 regulations.

1 (d) Application for a work permit for use in any jurisdiction
2 where a locally issued work permit is not required by the licensing
3 authority of a city, county, or city and county shall be made to the
4 department, and may be granted or denied for any cause deemed
5 reasonable by the commission. If the commission denies the
6 application, it shall include in its notice of denial a statement of
7 facts upon which it relied in denying the application. Upon receipt
8 of an application for a work permit, the commission may issue a
9 temporary work permit for a period not to exceed 120 days,
10 pending completion of the background investigation by the
11 department and official action by the commission with respect to
12 the work permit application.

13 (e) An order of the commission denying an application for, or
14 placing restrictions or conditions on, a work permit, including an
15 order declining to issue a work permit following review pursuant
16 to paragraph (3) of subdivision (c), may be reviewed in accordance
17 with subdivision (e) of Section 19870.

18 ~~SEC. 4.~~

19 *SEC. 8.* Section 19951 of the Business and Professions Code
20 is amended to read:

21 19951. (a) Every application for a license or approval shall be
22 accompanied by a nonrefundable fee, the amount of which shall
23 be adopted by regulation on or before January 1, 2009. The adopted
24 fee shall not exceed one thousand two hundred dollars (\$1,200).
25 Prior to adoption of the regulation, the nonrefundable application
26 fee shall be five hundred dollars (\$500).

27 (b) (1) Any fee paid pursuant to this section, including all
28 licenses issued to key employees and other persons whose names
29 are endorsed upon the license, shall be assessed against the
30 gambling license issued to the owner of the gambling
31 establishment. This paragraph shall not apply to key employee
32 licenses issued on and after January 1, 2009, or the implementation
33 of regulations establishing a personal key employee license adopted
34 pursuant to Section 19854, whichever is sooner.

35 (2) (A) The fee for initial issuance of a state gambling license
36 shall be an amount determined by the commission in accordance
37 with regulations adopted pursuant to this chapter.

38 (B) The fee for the renewal of a state gambling license shall be
39 determined pursuant to the schedule in subdivision (c) or the
40 schedule in subdivision (d), whichever amount is greater.

1 (C) The holder of a provisional license shall pay an annual fee
2 pursuant to the schedule in subdivision (c).

3 (c) The schedule based on the number of tables is as follows:

4 (1) For a license authorizing one to five tables, inclusive, at
5 which games are played, three hundred dollars (\$300) for each
6 table.

7 (2) For a license authorizing six to eight tables, inclusive, at
8 which games are played, five hundred fifty dollars (\$550) for each
9 table.

10 (3) For a license authorizing 9 to 14 tables, inclusive, at which
11 games are played, one thousand three hundred dollars (\$1,300) for
12 each table.

13 (4) For a license authorizing 15 to 25 tables, inclusive, at which
14 games are played, two thousand seven hundred dollars (\$2,700)
15 for each table.

16 (5) For a license authorizing 26 to 70 tables, inclusive, at which
17 games are played, four thousand dollars (\$4,000) for each table.

18 (6) For a license authorizing 71 or more tables at which games
19 are played, four thousand seven hundred dollars (\$4,700) for each
20 table.

21 (d) Without regard to the number of tables at which games may
22 be played pursuant to a gambling license, if, at any time of any
23 license renewal, or when a licensee is required to pay the fee
24 described in subparagraph (C) of paragraph (2) of subdivision (b)
25 it is determined that the gross revenues of an owner licensee during
26 the licensee's previous fiscal year fell within the following ranges,
27 the annual fee shall be as follows:

28 (1) For a gross revenue of two hundred thousand dollars
29 (\$200,000) to four hundred ninety-nine thousand nine hundred
30 ninety-nine dollars (\$499,999), inclusive, the amount specified by
31 the department pursuant to paragraph (2) of subdivision (c).

32 (2) For a gross revenue of five hundred thousand dollars
33 (\$500,000) to one million nine hundred ninety-nine thousand nine
34 hundred ninety-nine dollars (\$1,999,999), inclusive, the amount
35 specified by the department pursuant to paragraph (3) of
36 subdivision (c).

37 (3) For a gross revenue of two million dollars (\$2,000,000) to
38 nine million nine hundred ninety-nine thousand nine hundred
39 ninety-nine dollars (\$9,999,999), inclusive, the amount specified
40 by the department pursuant to paragraph (4) of subdivision (c).

1 (4) For a gross revenue of ten million dollars (\$10,000,000) to
2 twenty-nine million nine hundred ninety-nine thousand nine
3 hundred ninety-nine dollars (\$29,999,999), the amount specified
4 by the department pursuant to paragraph (5) of subdivision (c).

5 (5) For a gross revenue of thirty million dollars (\$30,000,000)
6 or more, the amount specified by the department pursuant to
7 paragraph (6) of subdivision (c).

8 (e) The department may provide for payment of the annual
9 gambling license fee on an annual or installment basis.

10 (f) For the purposes of this section, each table at which a game
11 is played constitutes a single game table.

12 (g) It is the intent of the Legislature that the fees paid pursuant
13 to this section are sufficient to enable the department and the
14 commission to fully carry out their duties and responsibilities under
15 this chapter.

16 *SEC. 9. Section 19984 of the Business and Professions Code*
17 *is amended to read:*

18 19984. Notwithstanding any other law, a licensed gambling
19 enterprise may contract with a third party for the purpose of
20 providing proposition player services at a gambling establishment,
21 subject to the following conditions:

22 (a) Any agreement, contract, or arrangement between a gambling
23 enterprise and a third-party provider of proposition player services
24 shall be approved in advance by the department, and in no event
25 shall a gambling enterprise or the house have any interest, whether
26 direct or indirect, in funds wagered, lost, or won.

27 (b) The commission shall establish reasonable criteria for, and
28 require the licensure and registration of, any person or entity that
29 provides proposition player services at gambling establishments
30 pursuant to this section, including owners, supervisors, and players.
31 Those employed by a third-party provider of proposition player
32 services, including owners, supervisors, observers, and players,
33 shall wear a badge which clearly identifies them as proposition
34 players whenever they are present within a gambling establishment.
35 The commission may impose licensing requirements, disclosures,
36 approvals, conditions, or limitations as it deems necessary to
37 protect the integrity of controlled gambling in this state, and may
38 ~~assess and collect~~ *assess, and the department may collect,*
39 reasonable fees and deposits as necessary to defray the costs of
40 providing this regulation and oversight.

1 (c) The department, pursuant to regulations of the commission,
2 is empowered to perform background checks, financial audits, and
3 other investigatory services as needed to assist the commission in
4 regulating third party providers of proposition player services, and
5 may assess and collect reasonable fees and deposits as necessary
6 to defray the costs of providing this regulation and oversight. The
7 department may adopt emergency regulations in order to implement
8 this subdivision.

9 (d) No agreement or contract between a licensed gambling
10 enterprise and a third party concerning the provision of proposition
11 player services shall be invalidated or prohibited by the department
12 pursuant to this section until the commission establishes criteria
13 for, and makes determinations regarding the licensure or
14 registration of, the provision of these services pursuant to
15 subdivision (b).

16 ~~SEC. 5.~~

17 *SEC. 10.* Section 1916.12 of the Civil Code is amended to read:

18 1916.12. (a) The Legislature finds that the economic
19 environment of financial institutions has become increasingly
20 volatile as a result of regulatory revisions enacted by the United
21 States Congress and federal agencies including, but not necessarily
22 limited to, the Comptroller of the Currency, the Federal Home
23 Loan Bank Board, Federal Reserve Board, and the Depository
24 Institutions Deregulation Committee. The Legislature further finds
25 that deposit rate ceilings are being phased out while the cost of
26 and competition for funds have escalated. It is the purpose of this
27 section to maintain the quality of competition between
28 state-licensed and federally regulated financial institutions in the
29 field of mortgage lending, as well as promote the convenience,
30 advantage and best interests of California residents in their pursuit
31 of adequate and available housing. In order to remain competitive
32 and provide the optimum housing environment for the citizens of
33 California, state institutions require the ability to respond in a
34 timely manner to changes in mortgage lending parameters initiated
35 at the federal level. Local regulatory guidelines must promote
36 continued parity between the state and federal levels in order to
37 avoid creation of discriminatory burdens upon state institutions
38 and to protect interests held by California citizens. It is the intent
39 of the Legislature to eliminate past and prevent future inequities
40 between state and federal financial institutions doing business in

1 the State of California by creating a sensitive and responsive
2 mortgage parity procedure.

3 (b) The Secretary of the Business, Consumer Services, and
4 Housing Agency, or the secretary's designee as defined by
5 subdivision (c) of Section 1918.5 of the Civil Code, shall have the
6 authority to prescribe rules and regulations extending to lenders
7 who make loans upon the security of residential real property any
8 right, power, privilege or duty relating to mortgage instruments
9 that is equivalent to authority extended to federally-regulated
10 financial institutions by federal statute or regulation.

11 (c) In order to grant equivalent mortgage lending authority to
12 state financial institutions to that which has been extended to
13 federal financial institutions, the secretary or the secretary's
14 designee shall adopt such regulations within 60 days of the
15 effective date of the statute or regulation extending the comparable
16 right, power, privilege or duty to federally regulated financial
17 institutions.

18 (d) The provisions of Sections 1916.5, 1916.6, 1916.7, 1916.8,
19 and 1916.9, and any other provisions of law relating to the
20 requirements for changes in the rate of interest on loans, shall not
21 be applicable to loans made pursuant to the provisions of this
22 section and regulations promulgated thereunder.

23 (e) Any regulations adopted pursuant to this section shall expire
24 on January 1 of the second succeeding year following the end of
25 the calendar year in which the regulation was promulgated.
26 Subsequent amendments to these regulations cannot extend this
27 expiration date.

28 (f) This section shall become operative on December 31, 1983.

29 ~~SEC. 6.~~

30 *SEC. 11.* Section 1918.5 of the Civil Code is amended to read:
31 1918.5. As used in this chapter:

32 (a) "Evidence of debt" means a note or negotiable instrument.

33 (b) "Secretary" means the Secretary of the Business, Consumer
34 Services, and Housing.

35 (c) "Secretary's designee" means the director of a department
36 within the agency that licenses or regulates the institutions,
37 organizations or persons engaged in a business related to or
38 affecting compliance with this chapter.

39 (d) "Security document" means a mortgage contract, deed of
40 trust, real estate sales contract, or any note or negotiable instrument

1 issued in connection therewith, when its purpose is to finance the
2 purchase or construction of real property occupied or intended to
3 be occupied by the borrower, containing four or fewer residential
4 units or on which four or fewer residential units are to be
5 constructed.

6 ~~SEC. 7.~~

7 *SEC. 12.* Section 5405 of the Civil Code is amended to read:

8 5405. (a) To assist with the identification of common interest
9 developments, each association, whether incorporated or
10 unincorporated, shall submit to the Secretary of State, on a form
11 and for a fee not to exceed thirty dollars (\$30) that the Secretary
12 of State shall prescribe, the following information concerning the
13 association and the development that it manages:

14 (1) A statement that the association is formed to manage a
15 common interest development under the Davis-Stirling Common
16 Interest Development Act.

17 (2) The name of the association.

18 (3) The street address of the business or corporate office of the
19 association, if any.

20 (4) The street address of the association's onsite office, if
21 different from the street address of the business or corporate office,
22 or if there is no onsite office, the street address of the responsible
23 officer or managing agent of the association.

24 (5) The name, address, and either the daytime telephone number
25 or e-mail address of the president of the association, other than the
26 address, telephone number, or e-mail address of the association's
27 onsite office or managing agent.

28 (6) The name, street address, and daytime telephone number of
29 the association's managing agent, if any.

30 (7) The county, and, if in an incorporated area, the city in which
31 the development is physically located. If the boundaries of the
32 development are physically located in more than one county, each
33 of the counties in which it is located.

34 (8) If the development is in an unincorporated area, the city
35 closest in proximity to the development.

36 (9) The front street and nearest cross street of the physical
37 location of the development.

38 (10) The type of common interest development managed by the
39 association.

40 (11) The number of separate interests in the development.

1 (b) The association shall submit the information required by
2 this section as follows:

3 (1) By incorporated associations, within 90 days after the filing
4 of its original articles of incorporation, and thereafter at the time
5 the association files its statement of principal business activity
6 with the Secretary of State pursuant to Section 8210 of the
7 Corporations Code.

8 (2) By unincorporated associations, in July 2003, and in that
9 same month biennially thereafter. Upon changing its status to that
10 of a corporation, the association shall comply with the filing
11 deadlines in paragraph (1).

12 (c) The association shall notify the Secretary of State of any
13 change in the street address of the association's onsite office or of
14 the responsible officer or managing agent of the association in the
15 form and for a fee prescribed by the Secretary of State, within 60
16 days of the change.

17 (d) The penalty for an incorporated association's noncompliance
18 with the initial or biennial filing requirements of this section shall
19 be suspension of the association's rights, privileges, and powers
20 as a corporation and monetary penalties, to the same extent and in
21 the same manner as suspension and monetary penalties imposed
22 pursuant to Section 8810 of the Corporations Code.

23 (e) The statement required by this section may be filed,
24 notwithstanding suspension of the corporate powers, rights, and
25 privileges under this section or under provisions of the Revenue
26 and Taxation Code. Upon the filing of a statement under this
27 section by a corporation that has suffered suspension under this
28 section, the Secretary of State shall certify that fact to the Franchise
29 Tax Board and the corporation may thereupon be relieved from
30 suspension, unless the corporation is held in suspension by the
31 Franchise Tax Board by reason of Section 23301, 23301.5, or
32 23775 of the Revenue and Taxation Code.

33 (f) The Secretary of State shall make the information submitted
34 pursuant to paragraph (5) of subdivision (a) available only for
35 governmental purposes and only to Members of the Legislature
36 and the Business, Consumer Services, and Housing Agency, upon
37 written request. All other information submitted pursuant to this
38 section shall be subject to public inspection pursuant to the
39 California Public Records Act (Chapter 3.5 (commencing with
40 Section 6250) of Division 7 of Title 1 of the Government Code).

1 The information submitted pursuant to this section shall be made
2 available for governmental or public inspection.

3 (g) Whenever any form is filed pursuant to this section, it
4 supersedes any previously filed form.

5 (h) The Secretary of State may destroy or otherwise dispose of
6 any form filed pursuant to this section after it has been superseded
7 by the filing of a new form.

8 ~~SEC. 8.~~

9 *SEC. 13.* Section 14024 of the Corporations Code is amended
10 to read:

11 14024. The manager shall adopt regulations concerning the
12 implementation of this chapter and direct lending as emergency
13 regulations in accordance with Chapter 3.5 (commencing with
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
15 Code. The adoption of these regulations is an emergency and
16 necessary for the immediate preservation of the public peace, health
17 and safety, or general welfare within the meaning of subdivision
18 (b) of Section 11346.1 of the Government Code. Notwithstanding
19 subdivision (e) of Section 11346.1 of the Government Code, the
20 regulations shall not remain in effect for more than 180 days unless
21 the Governor's Office of Business and Economic Development
22 complies with all provisions of Chapter 3.5 (commencing with
23 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
24 Code, as required by subdivision (e) of Section 11346.1 of the
25 Government Code. This section also applies to any direct loan
26 program administered by the Governor's Office of Business and
27 Economic Development.

28 ~~SEC. 9.~~

29 *SEC. 14.* Section 14025 of the Corporations Code is amended
30 to read:

31 14025. The manager shall do all of the following:

32 (a) Administer this part.

33 (b) In accordance with program resources, stimulate the
34 formation of corporations and the use of branch offices for the
35 purposes of making this program accessible to all areas of the state.

36 (c) Expeditiously approve or disapprove the articles of
37 incorporation and any subsequent amendments to the articles of
38 incorporation of a corporation.

39 (d) Require each corporation to submit an annual written plan
40 of operation.

1 (e) Review reports from the Department of Financial Institutions
2 and inform corporations as to what corrective action is required.

3 (f) Examine, or cause to be examined, at any reasonable time,
4 all books, records, and documents of every kind, and the physical
5 properties of a corporation. The inspection shall include the right
6 to make copies, extracts, and search records.

7 ~~SEC. 10.~~

8 *SEC. 15.* The heading of Article 4 (commencing with Section
9 14025) of Chapter 1 of Part 5 of Division 3 of Title 1 of the
10 Corporations Code is amended to read:

11
12 Article 4. Manager

13
14 ~~SEC. 11.~~

15 *SEC. 16.* Section 14026 of the Corporations Code is amended
16 to read:

17 14026. The manager may do all of the following:

- 18 (a) Contract for services entered into pursuant to this chapter.
- 19 (b) Hold public hearings.
- 20 (c) Act as liaison between corporations formed under this part,
21 other state and federal agencies, lenders, and the Legislature.
- 22 (d) Process and tabulate on a monthly basis all corporate reports.
- 23 (e) Attend board meetings.
- 24 (f) Attend and participate at corporation meetings. The manager,
25 or his or her designee, shall be an ex officio, nonvoting
26 representative on the board of directors and loan committees of
27 each corporation. The manager shall meet with the board of
28 directors of each corporation at least once each fiscal year.
- 29 (g) Assist corporations in applying for federal grant applications,
30 and in obtaining program support from the business community.

31 ~~SEC. 12.~~

32 *SEC. 17.* Section 14027 of the Corporations Code is amended
33 to read:

34 14027. The manager shall have the accounts of each corporation
35 formed under this part audited as of the close of business on June
36 30, of each year. The manager shall also have the portfolio of each
37 corporation audited a minimum of once a year. Material audit
38 exceptions that are not corrected by the corporation within a
39 reasonable period of time may result in the suspension of the
40 corporation pursuant to Section 14028.

1 ~~SEC. 13.~~

2 *SEC. 18.* Section 14028 of the Corporations Code is amended
3 to read:

4 14028. (a) Upon a finding by the manager that irreparable
5 harm may occur if guarantee authority is not temporarily withdrawn
6 from a corporation, the manager may temporarily withdraw
7 guarantee authority from a corporation. The notice of temporary
8 withdrawal sent to the corporation shall specify the reasons for the
9 action. As used in this section, “guarantee authority” means the
10 authority to make or guarantee any loan that encumbers funds in
11 a trust fund account or the expansion fund. The manager shall
12 make one of the determinations specified in subdivision (c) within
13 30 days of the effective date of the temporary withdrawal unless
14 the corporation and the manager mutually agree to an extension.
15 The corporation shall have the opportunity to submit written
16 material to the manager addressing the items stated in the
17 temporary withdrawal notice. If the manager does not make any
18 determinations within 30 days, the temporary withdrawal shall be
19 negated. The corporation’s yearly contract shall remain in effect
20 during the period of temporary withdrawal, and the corporation
21 shall continue to receive reimbursement of necessary operating
22 expenses.

23 (b) Failure of a corporation to substantially comply with the
24 following may result in the suspension of a corporation:

25 (1) Regulations implementing the Small Business Development
26 Corporation Law.

27 (2) The plan of operation specified in subdivision (d) of Section
28 14025.

29 (3) Fiscal and portfolio requirements, as contained in the fiscal
30 and portfolio audits specified in Section 14027.

31 (4) Milestones and scope of work as contained in the annual
32 contract between the corporation and the office.

33 (c) Pursuant to subdivision (a) or (b), the manager may do the
34 following:

35 (1) Terminate the temporary withdrawal.

36 (2) Terminate the temporary withdrawal subject to the
37 corporation’s adoption of a specified remedial action plan.

38 (3) Temporarily withdraw, or continue to withdraw, guarantee
39 authority until a specified time. This determination by the manager

1 requires a finding that the corporation has failed to comply with
2 the Small Business Development Corporation Law.

3 (4) Suspend the corporation.

4 (5) Suspend the corporation, with suspension stayed until the
5 corporation provides a remedial action plan to the manager, and
6 the manager decides whether to repeal or implement the stayed
7 suspension.

8 The determinations contained in paragraphs (4) and (5) require
9 a finding that irreparable harm will occur unless the corporation
10 is suspended.

11 (d) In considering a determination regarding the recommended
12 suspension and possible remedial action plans, the manager shall
13 consider, along with other criteria as specified in subdivision (b),
14 the corporation's history and past performance.

15 (e) Upon suspension of a corporation, the manager shall transfer
16 all funds, whether encumbered or not, in the trust fund account of
17 the suspended corporation into either the expansion fund or
18 temporarily transfer the funds to another corporation.

19 (f) If the manager decides to take any action against the
20 corporation pursuant to paragraphs (2) to (5), inclusive, of
21 subdivision (c), the corporation shall be notified of the action 10
22 days before the effective date of the action. The corporation shall
23 have the right to appeal the manager's decision to the board within
24 that 10-day period by sending notice to the manager and to the
25 chair of the board. Once the manager receives notice that the action
26 is being appealed, the manager's action shall be stayed except for
27 temporary withdrawal of guarantee authority. Upon receipt of the
28 notice, the manager shall schedule a properly noticed board meeting
29 within 30 days. The board may elect to take any of the actions
30 listed in subdivision (g). The temporary withdrawal of corporation
31 guarantee authority shall remain in effect until the board issues its
32 decision.

33 (g) Pursuant to subdivision (f), the board may do any of the
34 following:

35 (1) Terminate the action taken by the director.

36 (2) Modify the action taken by the manager subject to the
37 adoption by the corporation of a specified remedial action plan.

38 (3) Affirm the action taken by the manager.

39 (h) Following suspension, the corporation may continue its
40 existence as a nonprofit corporation pursuant to the Nonprofit

1 Public Benefit Corporation Law (Part 2 (commencing with Section
2 5110) of Division 2) but shall no longer be registered with the
3 Secretary of State as a small business development corporation.
4 A corporation shall not enjoy any of the benefits of a small business
5 development corporation following suspension.

6 (i) The funds in the trust fund account of a corporation under
7 temporary withdrawal shall be transferred to the expansion fund.
8 Upon termination of the temporary withdrawal, unless the
9 termination is caused by suspension, the funds of the corporation
10 that were transferred to the expansion fund from the trust fund
11 account shall be returned to the corporation's trust fund account,
12 notwithstanding Section 14037. While the funds of a corporation's
13 trust fund account reside in the expansion fund, use of the principal
14 on the funds shall be governed by the implementing regulations
15 specifying use of funds in the expansion fund. Interest on the funds
16 moved from a corporation's trust fund account upon temporary
17 withdrawal shall be limited to payment of the corporation's
18 administrative expenses, as contained in the contract between the
19 corporation and the office.

20 ~~SEC. 14.~~

21 *SEC. 19.* Section 14030.2 of the Corporations Code is amended
22 to read:

23 14030.2. (a) The manager may establish accounts within the
24 expansion fund for loan guarantees and surety bond guarantees,
25 including loan loss reserves. Each account is a legally separate
26 account, and shall not be used to satisfy loan or surety bond
27 guarantees or other obligations of another corporation. The manager
28 shall recommend whether the expansion fund and trust fund
29 accounts are to be leveraged, and if so, by how much. Upon the
30 request of the corporation, the manager's decision may be repealed
31 or modified by a board resolution.

32 (b) Annually, not later than January 1 of each year commencing
33 January 1, 1996, the manager shall prepare a report regarding the
34 loss experience for the expansion fund for loan guarantees and
35 surety bond guarantees for the preceding fiscal year. At a minimum,
36 the report shall also include data regarding numbers of surety bond
37 and loan guarantees awarded through the expansion fund, including
38 ethnicity and gender data of participating contractors and other
39 entities, and experience of surety insurer participants in the bond
40 guarantee program. The report shall include the information

1 described in Section 14076 of the Corporations Code. The manager
2 shall submit that report to the Governor and the Legislature.

3 ~~SEC. 15.~~

4 *SEC. 20.* Section 14034 of the Corporations Code is amended
5 to read:

6 14034. (a) The manager at his or her discretion, with the
7 approval of the Director of Finance, may request the trustee to
8 invest those funds in the trust fund in any of the securities described
9 in Section 16430 of the Government Code. Returns from these
10 investments shall be deposited in the expansion fund and shall be
11 used to support the programs of this part.

12 (b) Any investments made in securities described in Section
13 16430 of the Government Code shall be governed by the statement
14 of investment policy prepared by the Treasurer pursuant to
15 subdivision (a) of Section 16481.2 of the Government Code.

16 ~~SEC. 16.~~

17 *SEC. 21.* Section 14036 of the Corporations Code is amended
18 to read:

19 14036. The expansion fund and trust fund are created solely
20 for the purpose of receiving state, federal, or local government
21 money, and other public or private money to make loans,
22 guarantees, and restricted investments pursuant to this article.
23 Funds in the expansion fund may be allocated by the manager,
24 with the approval of the Department of Finance, to the trust fund
25 accounts.

26 ~~SEC. 17.~~

27 *SEC. 22.* Section 14037 of the Corporations Code is amended
28 to read:

29 14037. (a) The state shall not be liable or obligated in any way
30 beyond the state money that is allocated and deposited in the trust
31 fund account from state money and that is appropriated for these
32 purposes.

33 (b) The manager may reallocate funds held within a
34 corporation's trust fund account.

35 (1) The manager shall reallocate funds based on which
36 corporation is most effectively using its guarantee funds. If funds
37 are withdrawn from a less effective corporation as part of a
38 reallocation, the office shall make that withdrawal only after giving
39 consideration to that corporation's fiscal solvency, its ability to
40 honor loan guarantee defaults, and its ability to maintain a viable

1 presence within the region it serves. Reallocation of funds shall
2 occur no more frequently than once per fiscal year. Any decision
3 made by the manager pursuant to this subdivision may be appealed
4 to the board. The board has authority to repeal or modify any
5 decision to reallocate funds.

6 (2) The manager may authorize a corporation to exceed the
7 leverage ratio specified in Section 14030, subdivision (b) of Section
8 14070, and subdivision (a) of Section 14076 pending the annual
9 reallocation of funds pursuant to this section. However, no
10 corporation shall be permitted to exceed an outstanding guarantee
11 liability of more than five times its portion of funds on deposit in
12 the expansion fund.

13 ~~SEC. 18.~~

14 *SEC. 23.* Section 14037.5 of the Corporations Code is amended
15 to read:

16 14037.5. The Director of Finance, with the approval of the
17 Governor, may transfer moneys in the Special Fund for Economic
18 Uncertainties to the Small Business Expansion Fund for use as
19 authorized by the manager, in an amount necessary to make loan
20 guarantees pursuant to Chapter 1 (commencing with Section 14000)
21 of Part 5 of Division 3 of Title 1 of the Corporations Code.

22 ~~SEC. 19.~~

23 *SEC. 24.* Section 14037.7 of the Corporations Code is amended
24 to read:

25 14037.7. Pursuant to subdivision (f) of Section 8684.2 of the
26 Government Code, within 60 days of the conclusion of the period
27 for guaranteeing loans under any small business disaster loan
28 guarantee program conducted for a disaster as authorized by
29 Section 8684.2 of the Government Code or Section 14075, the
30 manager, through the office, shall provide a report to the
31 Legislature on loan guarantees approved and rejected by gender,
32 ethnic group, type of business and location, and each participating
33 loan institution. The office need only submit one report to comply
34 with this section and subdivision (f) of Section 8684.2 of the
35 Government Code.

36 ~~SEC. 20.~~

37 *SEC. 25.* Section 14038 of the Corporations Code is amended
38 to read:

39 14038. (a) The funds in the expansion fund shall be paid out
40 to trust fund accounts by the Treasurer on warrants drawn by the

1 Controller and requisitioned by the manager, pursuant to the
2 purposes of this chapter. The manager may transfer funds allocated
3 from the expansion fund to accounts, established solely to receive
4 the funds, in lending institutions designated by the office to act as
5 trustee. The lending institutions so designated shall be approved
6 by the state for the receipt of state deposits. Interest earned on the
7 trust fund accounts in lending institutions may be utilized by the
8 corporations pursuant to the purposes of this chapter.

9 (b) Except as specified in subdivision (c), the manager shall
10 allocate and transfer money to trust fund accounts based on
11 performance-based criteria. The criteria shall include, but not be
12 limited to, the following:

13 (1) The default record of the corporation.

14 (2) The number and amount of loans guaranteed by a
15 corporation.

16 (3) The number and amount of loans made by a corporation if
17 state funds were used to make those loans.

18 (4) The number and amount of surety bonds guaranteed by a
19 corporation.

20 Any decision made by the manager pursuant to this subdivision
21 may be appealed to the board within 15 days of notice of the
22 proposed action. The board may repeal or modify any reallocation
23 and transfer decisions made by the manager.

24 (c) The criteria specified in subdivision (b) shall not apply to a
25 corporation that has been in existence for five years or less. The
26 manager shall develop regulations specifying the basis for
27 transferring account funds to those corporations that have been in
28 existence for five years or less.

29 ~~SEC. 21.~~

30 *SEC. 26.* Section 14039 of the Corporations Code is amended
31 to read:

32 14039. Pursuant to this section and the regulations, the state
33 has residual interest in the funds deposited by the state to a trust
34 fund account and to the return on these funds from investments.
35 On dissolution or suspension of the corporation, these funds shall
36 be withdrawn by the manager from the trust fund account and
37 returned to the expansion fund or temporarily transferred to another
38 trust fund account. This provision shall be contained in the trust
39 instructions to the trustee.

1 ~~SEC. 22.~~

2 SEC. 27. Section 14040 of the Corporations Code is amended
3 to read:

4 14040. Each trust fund account shall consist of a loan guarantee
5 account, and, upon recommendation by the manager, a bond
6 guarantee account, each of which is a legally separate account,
7 and the assets of one account shall not be used to satisfy loan
8 guarantees or other obligations of another corporation. Not more
9 than one-third of a trust fund account shall be allocated to a bond
10 guarantee account. A corporation shall not use trust fund accounts
11 to secure a corporate indebtedness. State funds deposited in the
12 trust fund accounts, with the exception of guarantees established
13 pursuant to this chapter, shall not be subject to liens or
14 encumbrances of the corporation or its creditors.

15 ~~SEC. 23.~~

16 SEC. 28. Section 14041 of the Corporations Code is amended
17 to read:

18 14041. (a) Except as provided in subdivisions (c) and (d) of
19 Section 14070, the trust fund account, shall be used solely to make
20 loans, guarantee bonds, and guarantee loans, approved by the
21 corporation, that meet the California Small Business Development
22 Corporation Law loan criteria. The state shall not be liable or
23 obligated in any way as a result of the allocation of state money
24 to a trust fund account beyond the state money that is allocated
25 and deposited in the fund pursuant to this chapter, and that is not
26 otherwise withdrawn by the state pursuant to this chapter.

27 (b) A summary of all loans and bonds to which a state guarantee
28 is attached shall be submitted to the manager upon execution of
29 the loan agreement and periodically thereafter.

30 (c) A summary of all loans made by a corporation shall be
31 submitted to the manager upon execution of the loan agreement
32 and periodically thereafter.

33 ~~SEC. 24.~~

34 SEC. 29. Section 14043 of the Corporations Code is amended
35 to read:

36 14043. The financial institution that is to act as trustee of the
37 trust fund shall be designated after review by the manager. The
38 corporation shall not receive money on deposit to support
39 guarantees issued under this chapter without the approval of the
40 manager.

1 ~~SEC. 25.~~

2 *SEC. 30.* Section 14061 of the Corporations Code is amended
3 to read:

4 14061. Every corporation shall provide for and maintain a
5 central staff to perform all administrative requirements of the
6 corporation including all those functions required of a corporation
7 by the manager.

8 ~~SEC. 26.~~

9 *SEC. 31.* Section 14065 of the Corporations Code is amended
10 to read:

11 14065. The corporations shall report to the manager, or his or
12 her designated representative, all statistical and other reports
13 required by this part, responses to audit reports, budget
14 requirements, invoices submitted for payment by the state, and
15 information concerning loans made or guaranteed.

16 ~~SEC. 27.~~

17 *SEC. 32.* Section 14066 of the Corporations Code is amended
18 to read:

19 14066. The corporation shall make a report to the manager, as
20 of the close of business on June 30, of each year describing the
21 corporation's activities and any additional information requested
22 by the manager, on or before August 1 of each year.

23 ~~SEC. 28.~~

24 *SEC. 33.* Section 14070 of the Corporations Code, as amended
25 by Section 4 of Chapter 648 of the Statutes of 2012, is amended
26 to read:

27 14070. (a) The corporate guarantee shall be backed by funds
28 on deposit in the corporation's trust fund account, or by receivables
29 due from funds loaned from the corporation's trust fund account
30 to another fund in state government as directed by the Department
31 of Finance pursuant to a statute enacted by the Legislature.

32 (b) Loan guarantees shall be secured by a reserve of at least 20
33 percent to be determined by the manager.

34 (c) The expansion fund and trust fund accounts shall be used
35 exclusively to guarantee obligations and pay the administrative
36 costs of the corporations. A corporation located in a rural area may
37 utilize the funds for direct lending to farmers as long as at least 90
38 percent of the corporate fund farm loans, calculated by dollar
39 amount, and all expansion fund farm loans are guaranteed by the
40 United States Department of Agriculture. The amount of funds

1 available for direct farm lending shall be determined by the
2 manager. In its capacity as a direct lender, the corporation may
3 sell in the secondary market the guaranteed portion of each loan
4 so as to raise additional funds for direct lending. The office shall
5 issue regulations governing these direct loans, including the
6 maximum amount of these loans.

7 (d) In furtherance of the purposes of this part, up to one-half of
8 the trust funds may be used to guarantee loans utilized to establish
9 a Business and Industrial Development Corporation (BIDCO)
10 under Division 15 (commencing with Section 33000) of the
11 Financial Code.

12 (e) To execute the direct loan programs established in this
13 chapter, the manager may loan trust funds to a corporation located
14 in a rural area for the express purpose of lending those funds to an
15 identified borrower. The loan authorized by the manager to the
16 corporation shall be on terms similar to the loan between the
17 corporation and the borrower. The amount of the loan may be in
18 excess of the amount of a loan to any individual farm borrower,
19 but actual disbursements pursuant to the office loan agreement
20 shall be required to be supported by a loan agreement between the
21 farm borrower and the corporation in an amount at least equal to
22 the requested disbursement. The loan between the office and the
23 corporation shall be evidenced by a credit agreement. In the event
24 that any loan between the corporation and borrower is not
25 guaranteed by a governmental agency, the portion of the credit
26 agreement attributable to that loan shall be secured by assignment
27 of any note, executed in favor of the corporation by the borrower
28 to the office. The terms and conditions of the credit agreement
29 shall be similar to the loan agreement between the corporation and
30 the borrower, which shall be collateralized by the note between
31 the corporation and the borrower. In the absence of fraud on the
32 part of the corporation, the liability of the corporation to repay the
33 loan to the office is limited to the repayment received by the
34 corporation from the borrower except in a case where the United
35 States Department of Agriculture requires exposure by the
36 corporation in rule or regulation. The corporation may use trust
37 funds for loan repayment to the office if the corporation has
38 exhausted a loan loss reserve created for this purpose. Interest and
39 principal received by the office from the corporation shall be

1 deposited into the same account from which the funds were
2 originally borrowed.

3 (f) Upon the approval of the manager, a corporation shall be
4 authorized to borrow trust funds from the office for the purpose
5 of relending those funds to small businesses. A corporation shall
6 demonstrate to the manager that it has the capacity to administer
7 a direct loan program, and has procedures in place to limit the
8 default rate for loans to startup businesses. Not more than 25
9 percent of any trust fund account shall be used for the direct lending
10 established pursuant to this subdivision. A loan to a corporation
11 shall not exceed the amount of funds likely to be lent to small
12 businesses within three months following the loan to the
13 corporation. The maximum loan amount to a small business is fifty
14 thousand dollars (\$50,000). In the absence of fraud on the part of
15 the corporation, the repayment obligation pursuant to the loan to
16 the corporation shall be limited to the amount of funds received
17 by the corporation for the loan to the small business and any other
18 funds received from the office that are not disbursed. The
19 corporation shall be authorized to charge a fee to the small business
20 borrower, in an amount determined by the manager pursuant to
21 regulation. The program provided for in this subdivision shall be
22 available in all geographic areas of the state.

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

26 ~~SEC. 29:~~

27 *SEC. 34.* Section 14070 of the Corporations Code, as amended
28 by Section 5 of Chapter 648 of the Statutes of 2012, is amended
29 to read:

30 14070. (a) The corporate guarantee shall be backed by funds
31 on deposit in the corporation's trust fund account, or by receivables
32 due from funds loaned from the corporation's trust fund account
33 to another fund in state government as directed by the Department
34 of Finance pursuant to a statute enacted by the Legislature.

35 (b) Loan guarantees shall be secured by a reserve of at least 25
36 percent to be determined by the manager, unless the manager
37 authorizes a higher leverage ratio for an individual corporation
38 pursuant to subdivision (b) of Section 14037.

39 (c) The expansion fund and trust fund accounts shall be used
40 exclusively to guarantee obligations and pay the administrative

1 costs of the corporations. A corporation located in a rural area may
2 utilize the funds for direct lending to farmers as long as at least 90
3 percent of the corporate fund farm loans, calculated by dollar
4 amount, and all expansion fund farm loans are guaranteed by the
5 United States Department of Agriculture. The amount of funds
6 available for direct farm lending shall be determined by the
7 manager. In its capacity as a direct lender, the corporation may
8 sell in the secondary market the guaranteed portion of each loan
9 so as to raise additional funds for direct lending. The office shall
10 issue regulations governing these direct loans, including the
11 maximum amount of these loans.

12 (d) In furtherance of the purposes of this part, up to one-half of
13 the trust funds may be used to guarantee loans utilized to establish
14 a Business and Industrial Development Corporation (BIDCO)
15 under Division 15 (commencing with Section 33000) of the
16 Financial Code.

17 (e) To execute the direct loan programs established in this
18 chapter, the manager may loan trust funds to a corporation located
19 in a rural area for the express purpose of lending those funds to an
20 identified borrower. The loan authorized by the manager to the
21 corporation shall be on terms similar to the loan between the
22 corporation and the borrower. The amount of the loan may be in
23 excess of the amount of a loan to any individual farm borrower,
24 but actual disbursements pursuant to the office loan agreement
25 shall be required to be supported by a loan agreement between the
26 farm borrower and the corporation in an amount at least equal to
27 the requested disbursement. The loan between the office and the
28 corporation shall be evidenced by a credit agreement. In the event
29 that any loan between the corporation and borrower is not
30 guaranteed by a governmental agency, the portion of the credit
31 agreement attributable to that loan shall be secured by assignment
32 of any note, executed in favor of the corporation by the borrower
33 to the office. The terms and conditions of the credit agreement
34 shall be similar to the loan agreement between the corporation and
35 the borrower, which shall be collateralized by the note between
36 the corporation and the borrower. In the absence of fraud on the
37 part of the corporation, the liability of the corporation to repay the
38 loan to the office is limited to the repayment received by the
39 corporation from the borrower except in a case where the United
40 States Department of Agriculture requires exposure by the

1 corporation in rule or regulation. The corporation may use trust
2 funds for loan repayment to the office if the corporation has
3 exhausted a loan loss reserve created for this purpose. Interest and
4 principal received by the office from the corporation shall be
5 deposited into the same account from which the funds were
6 originally borrowed.

7 (f) Upon the approval of the manager, a corporation shall be
8 authorized to borrow trust funds from the office for the purpose
9 of relending those funds to small businesses. A corporation shall
10 demonstrate to the manager that it has the capacity to administer
11 a direct loan program, and has procedures in place to limit the
12 default rate for loans to startup businesses. Not more than 25
13 percent of any trust fund account shall be used for the direct lending
14 established pursuant to this subdivision. A loan to a corporation
15 shall not exceed the amount of funds likely to be lent to small
16 businesses within three months following the loan to the
17 corporation. The maximum loan amount to a small business is fifty
18 thousand dollars (\$50,000). In the absence of fraud on the part of
19 the corporation, the repayment obligation pursuant to the loan to
20 the corporation shall be limited to the amount of funds received
21 by the corporation for the loan to the small business and any other
22 funds received from the agency that are not disbursed. The
23 corporation shall be authorized to charge a fee to the small business
24 borrower, in an amount determined by the manager pursuant to
25 regulation. The program provided for in this subdivision shall be
26 available in all geographic areas of the state.

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

28 ~~SEC. 30.~~

29 *SEC. 35.* Section 14071 of the Corporations Code is amended
30 to read:

31 14071. In furtherance of the purposes set forth in Section
32 14002, a corporation may do any one or more of the following
33 activities, but only to the extent that the activities are authorized
34 pursuant to the contract between the office and the corporation:
35 guarantee, endorse, or act as surety on the bonds, notes, contracts,
36 or other obligations of, or assist financially, any person, firm,
37 corporation, or association, and may establish and regulate the
38 terms and conditions with respect to any such loans or financial
39 assistance and the charges for interest and service connected

1 therewith, except that the corporation shall not make or guarantee
2 any loan unless and until it determines:

3 (a) There is no probability that the loan or other financial
4 assistance would be granted by a financial company under
5 reasonable terms or conditions, and the borrower has demonstrated
6 a reasonable prospect of repayment of the loan.

7 (b) The loan proceeds shall be used exclusively in this state.

8 (c) The loan qualifies as a small business loan or an employment
9 incentive loan.

10 (d) That the borrower has a minimum equity interest in the
11 business as determined by the manager.

12 (e) As a result of the loan, the jobs generated or retained
13 demonstrate reasonable conformance to the regulations specifying
14 employment criteria.

15 ~~SEC. 31.~~

16 *SEC. 36.* Section 14071.5 of the Corporations Code is amended
17 to read:

18 14071.5. In addition to the authority granted by Section 14071,
19 upon approval of the manager, a corporation may act as guarantor
20 on a surety bond for any small business contractor, including, but
21 not limited to, women, minority, and disabled veteran contractors.

22 The provisions of this section allowing a corporation to act as a
23 guarantor on surety bonds may be funded through appropriate
24 federal funding sources. Federal funds shall be deposited in the
25 Federal Trust Fund in the State Treasury in accordance with Section
26 16360 of the Government Code, for transfer to the Small Business
27 Expansion Fund, as created by Section 14030 of the Corporations
28 Code.

29 ~~SEC. 32.~~

30 *SEC. 37.* Section 14072 of the Corporations Code is amended
31 to read:

32 14072. A corporation may charge the borrower or financial
33 institution a loan fee on all loans made or guaranteed by the
34 corporation to defray the operating expenses of the corporation.
35 The amount of the fee shall be determined by the manager.

36 ~~SEC. 33.~~

37 *SEC. 38.* Section 14074 of the Corporations Code is amended
38 to read:

39 14074. The office shall enter into an agreement with the
40 California Energy Extension Service of the Office of Planning and

1 Research to assist small business owners in reducing their energy
2 costs through low interest loans and by providing assistance and
3 information.

4 ~~SEC. 34.~~

5 *SEC. 39.* Section 14075 of the Corporations Code is amended
6 to read:

7 14075. (a) A corporation may, in an area affected by a state
8 of emergency within the state and declared a disaster by the
9 President of the United States, or by the Administrator of the
10 United States Small Business Administration, or by the United
11 States Secretary of Agriculture or declared to be in a state of
12 emergency by the Governor, provide loan guarantees from funds
13 allocated in Section 14037.5 to small businesses, small farms,
14 nurseries, and agriculture-related enterprises that have suffered
15 actual physical damage or significant economic injury as a result
16 of the disaster.

17 (b) The office may adopt regulations to implement the loan
18 guarantee program authorized by this section. The office may adopt
19 these regulations as emergency regulations in accordance with
20 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
21 3 of the Government Code, and for purposes of that chapter,
22 including Section 11349.6 of the Government Code, the adoption
23 of the regulations shall be considered by the Office of
24 Administrative Law to be necessary for the immediate preservation
25 of the public peace, health and safety, and general welfare.
26 Notwithstanding subdivision (e) of Section 11346.1 of the
27 Government Code, the regulations shall be repealed within 180
28 days after their effective date unless the agency complies with
29 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
30 3 of the Government Code, as provided in subdivision (e) of
31 Section 11346.1 of the Government Code.

32 (c) Allocations pursuant to subdivision (a) shall be deemed to
33 be for extraordinary emergency or disaster response operations
34 costs incurred by the office.

35 ~~SEC. 35.~~

36 *SEC. 40.* Section 14076 of the Corporations Code, as amended
37 by Section 6 of Chapter 648 of the Statutes of 2012, is amended
38 to read:

39 14076. (a) It is the intent of the Legislature that the
40 corporations make maximal use of their statutory authority to

1 guarantee loans and surety bonds, including the authority to secure
2 loans with a minimum loan loss reserve of only 20 percent, so that
3 the financing needs of small business may be met as fully as
4 possible within the limits of corporations' loan loss reserves. The
5 office shall report annually to the Legislature on the financial status
6 of the corporations and their portfolio of loans and surety bonds
7 guaranteed.

8 (b) Any corporation that serves an area declared to be in a state
9 of emergency by the Governor or a disaster area by the President
10 of the United States, the Administrator of the United States Small
11 Business Administration, or the United States Secretary of
12 Agriculture shall increase the portfolio of loan guarantees where
13 the dollar amount of the loan is less than one hundred thousand
14 dollars (\$100,000), so that at least 15 percent of the dollar value
15 of loans guaranteed by the corporation is for those loans. The
16 corporation shall comply with this requirement within one year of
17 the date the emergency or disaster is declared. Upon application
18 of a corporation, the manager may waive or modify the rule for
19 the corporation if the corporation demonstrates that it made a good
20 faith effort to comply and failed to locate lending institutions in
21 the region that the corporation serves that are willing to make
22 guaranteed loans in that amount.

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

26 ~~SEC. 36.~~

27 *SEC. 41.* Section 14076 of the Corporations Code, as amended
28 by Section 7 of Chapter 648 of the Statutes of 2012, is amended
29 to read:

30 14076. (a) It is the intent of the Legislature that the
31 corporations make maximal use of their statutory authority to
32 guarantee loans and surety bonds, including the authority to secure
33 loans with a minimum loan loss reserve of only 25 percent, unless
34 the agency authorizes a higher leverage ratio for an individual
35 corporation pursuant to subdivision (b) of Section 14037, so that
36 the financing needs of small business may be met as fully as
37 possible within the limits of corporations' loan loss reserves. The
38 office shall report annually to the Legislature on the financial status
39 of the corporations and their portfolio of loans and surety bonds
40 guaranteed.

1 (b) Any corporation that serves an area declared to be in a state
2 of emergency by the Governor or a disaster area by the President
3 of the United States, the Administrator of the United States Small
4 Business Administration, or the United States Secretary of
5 Agriculture shall increase the portfolio of loan guarantees where
6 the dollar amount of the loan is less than one hundred thousand
7 dollars (\$100,000), so that at least 15 percent of the dollar value
8 of loans guaranteed by the corporation is for those loans. The
9 corporation shall comply with this requirement within one year of
10 the date the emergency or disaster is declared. Upon application
11 of a corporation, the manager may waive or modify the rule for
12 the corporation if the corporation demonstrates that it made a good
13 faith effort to comply and failed to locate lending institutions in
14 the region that the corporation serves that are willing to make
15 guaranteed loans in that amount.

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

17 ~~SEC. 37.~~

18 *SEC. 42.* Section 14085 of the Corporations Code is amended
19 to read:

20 14085. It shall be unlawful for the manager or any person who
21 is an officer, director, or employee of a corporation, or who is a
22 member of a loan committee, or who is an employee of the office
23 to:

24 (a) Ask for, consent, or agree to receive, any commission,
25 emolument, gratuity, money, property, or thing of value for his or
26 her own use, benefit, or personal advantage, for procuring or
27 endeavoring to procure for any person, partnership, joint venture,
28 association, or corporation, any loan, guarantee, financial, or other
29 assistance from any corporation.

30 (b) Borrow money, property, or to benefit knowingly, directly
31 or indirectly, from the use of the money, credit, or property of any
32 corporation.

33 (c) Make, maintain, or attempt to make or maintain, a deposit
34 of the funds of a corporation with any other corporation or
35 association on condition, or with the understanding, expressed or
36 implied, that the corporation or association receiving the deposit
37 shall pay any money or make a loan or advance, directly or
38 indirectly, to any person, partnership, joint venture, association,
39 or corporation, other than to a corporation formed under this part.

1 ~~SEC. 38.~~

2 *SEC. 43.* Section 14086 of the Corporations Code is amended
3 to read:

4 14086. It shall be unlawful for the manager or any person who
5 is an officer or director of a corporation, or who is an employee
6 of the office, to purchase or receive, or to be otherwise interested
7 in the purchase or receipt, directly or indirectly, of any asset of a
8 corporation, without paying to the corporation the fair market value
9 of the asset at the time of the transaction.

10 ~~SEC. 39.~~

11 *SEC. 44.* Section 29503 of the Corporations Code is amended
12 to read:

13 29503. “Commissioner” means the Commissioner of Business
14 Oversight.

15 ~~SEC. 40.~~

16 *SEC. 45.* Section 31004 of the Corporations Code is amended
17 to read:

18 31004. “Commissioner” means the Commissioner of Business
19 Oversight.

20 ~~SEC. 41.~~

21 *SEC. 46.* Section 300 of the Financial Code, as amended by
22 Section 5 of Chapter 147 of the Statutes of 2012, is amended to
23 read:

24 300. (a) In this section:

25 (1) “Business and industrial development corporation” means
26 a corporation licensed under Division 15 (commencing with
27 Section 31000).

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

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

32 (b) There is in the state government, in the Business, Consumer
33 Services, and Housing Agency, a Department of Business
34 Oversight, which has charge of the execution of, among other laws,
35 the laws of this state relating to any of the following: (1) banks or
36 trust companies or the banking or trust business; (2) savings
37 associations or the savings association business; (3) credit unions
38 or the credit union business; (4) persons who engage in the business
39 of receiving money for transmission to foreign nations or such
40 business; (5) issuers of traveler’s checks or the traveler’s check

1 business; (6) issuers of payment instruments or the payment
2 instrument business; (7) business and industrial development
3 corporations or the business and industrial development corporation
4 business; (8) insurance premium finance agencies or the insurance
5 premium finance business; (9) persons offering or making any
6 contract constituting bucketing; (10) persons offering or selling
7 off-exchange commodities; (11) deferred deposit originators; (12)
8 finance lenders and brokers; (13) residential mortgage lenders and
9 servicers; (14) capital access companies; (15) check sellers, bill
10 payers, and proraters; (16) securities issuers, broker-dealers, agents,
11 investment advisers, and investment adviser representatives; (17)
12 mortgage loan originators employed or supervised by finance
13 lenders or residential mortgage lenders; (18) escrow agents; (19)
14 franchisors, or (20) persons holding securities as custodians on
15 behalf of securities owners.

16 ~~SEC. 42.~~

17 *SEC. 47.* Section 301 of the Financial Code is amended to read:

18 301. (a) This chapter is applicable to this division, Division
19 1.1 (commencing with Section 1000), Division 1.2 (commencing
20 with Section 2000), Division 1.6 (commencing with Section 4800),
21 Division 5 (commencing with Section 14000), Division 7
22 (commencing with Section 18000), and Division 15 (commencing
23 with Section 31000).

24 (b) Except as provided in subdivision (c), this article, and
25 Articles 2 (commencing with Section 320) and 3 (commencing
26 with Section 350) are applicable to the administration of laws by
27 the Division of Corporations.

28 (c) Sections 329, 330, 332, 335, 336, 357, 378, 379, and 381
29 are not applicable to the Division of Corporations.

30 ~~SEC. 43.~~

31 *SEC. 48.* Section 320 of the Financial Code is amended to read:

32 320. (a) The chief officer of the Department of Business
33 Oversight is the Commissioner of Business Oversight. The
34 Commissioner of Business Oversight is the head of the department
35 with the authority and responsibility over all officers, employees,
36 and activities in the department and, except as otherwise provided
37 in this code and the Corporations Code, is subject to the provisions
38 of the Government Code relating to department heads.

39 (b) The Commissioner of Business Oversight shall employ legal
40 counsel to act as the attorney for the commissioner in actions or

1 proceedings brought by or against the commissioner under or
2 pursuant to any law under the commissioner's jurisdiction, or in
3 which the commissioner joins or intervenes as to a matter within
4 the commissioner's jurisdiction, as a friend of the court or
5 otherwise, and stenographic reporters to take and transcribe the
6 testimony in any formal hearing or investigation before the
7 commissioner or before a person authorized by the commissioner.

8 (c) Sections 11040, 11042, and 11043 of the Government Code
9 do not apply to the Commissioner of Business Oversight.

10 ~~SEC. 44.~~

11 *SEC. 49.* Section 326 of the Financial Code is amended to read:
12 326. The Commissioner of Business Oversight is responsible
13 for the performance of all duties, the exercise of all powers and
14 jurisdiction, and the assumption and discharge of all responsibilities
15 vested by law in the department and the divisions thereunder. The
16 commissioner has and may exercise all the powers necessary or
17 convenient for the administration and enforcement of, among other
18 laws, the laws described in Section 300. The commissioner may
19 issue rules and regulations consistent with law as he or she may
20 deem necessary or advisable in executing the powers, duties, and
21 responsibilities of the department.

22 ~~SEC. 45.~~

23 *SEC. 50.* Section 350 of the Financial Code is amended to read:
24 350. The chief deputy shall be appointed by the Governor and
25 hold office at the pleasure of the Governor. The annual salary of
26 the chief deputy shall be fixed by the Governor.

27 ~~SEC. 46.~~

28 *SEC. 51.* Section 351 of the Financial Code is repealed.

29 ~~SEC. 47.~~

30 *SEC. 52.* Section 351 is added to the Financial Code, to read:
31 351. (a) The chief officer of the Division of Corporations is
32 the Senior Deputy Commissioner of Business Oversight for the
33 Division of Corporations. The Senior Deputy Commissioner of
34 Business Oversight for the Division of Corporations shall, under
35 the direction of the commissioner, administer the laws of this state
36 that were, prior to July 1, 2013, under the charge of the Department
37 of Corporations. The Senior Deputy Commissioner of Business
38 Oversight for the Division of Corporations shall be appointed by
39 the Governor and shall hold office at the pleasure of the Governor.
40 The Senior Deputy Commissioner of Business Oversight for the

1 Division of Corporations shall receive an annual salary as fixed
2 by the Governor.

3 (b) The chief officer of the Division of Financial Institutions is
4 the Senior Deputy Commissioner of Business Oversight for the
5 Division of Financial Institutions. The Senior Deputy
6 Commissioner of Business Oversight for the Division of Financial
7 Institutions shall, under the direction of the commissioner,
8 administer the laws of this state that were, prior to July 1, 2013,
9 under the charge of the Department of Financial Institutions. The
10 Senior Deputy Commissioner of Business Oversight for the
11 Division of Financial Institutions shall be appointed by the
12 Governor and shall hold office at the pleasure of the Governor.
13 The Senior Deputy Commissioner of Business Oversight for the
14 Division of Financial Institutions shall receive an annual salary as
15 fixed by the Governor.

16 ~~SEC. 48.~~

17 *SEC. 53.* Section 353 of the Financial Code is amended to read:
18 353. Before entering upon the duties of his office each deputy
19 and examiner shall take and subscribe to the constitutional oath
20 of office.

21 ~~SEC. 49.~~

22 *SEC. 54.* Section 371 of the Financial Code is repealed.

23 ~~SEC. 50.~~

24 *SEC. 55.* Section 371 is added to the Financial Code, to read:
25 371. (a) There is in the Department of Business Oversight, the
26 Division of Corporations, under the direction of the Senior Deputy
27 Commissioner of Business Oversight for the Division of
28 Corporations. The senior deputy commissioner has charge of the
29 execution of the laws of the state that were, prior to July 1, 2013,
30 under the charge of the Department of Corporations.

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

38 ~~SEC. 51.~~

39 *SEC. 56.* Section 4805.055 of the Financial Code is amended
40 to read:

1 4805.055. “Commissioner” means the ~~Senior Deputy~~
2 Commissioner of Business ~~Oversight for the Division of Financial~~
3 ~~Institutions~~; *Oversight*.

4 ~~SEC. 52.~~

5 *SEC. 57.* Section 5104 of the Financial Code is amended to
6 read:

7 5104. “Commissioner” means the ~~Senior Deputy~~ Commissioner
8 of Business ~~Oversight for the Division of Financial Institutions~~;
9 *Oversight*.

10 ~~SEC. 53.~~

11 *SEC. 58.* Section 12003 of the Financial Code is amended to
12 read:

13 12003. “Commissioner” means the ~~Senior Deputy~~
14 Commissioner of Business ~~Oversight for the Division of~~
15 ~~Corporations~~; *Oversight*, or any deputy, investigator, auditor, or
16 any other person employed by ~~him~~; *him or her*.

17 ~~SEC. 54.~~

18 *SEC. 59.* Section 14003 of the Financial Code is amended to
19 read:

20 14003. “Commissioner” means the ~~Senior Deputy~~
21 Commissioner of Business ~~Oversight for the Division of~~
22 ~~Corporations~~; *Oversight*.

23 ~~SEC. 55.~~

24 *SEC. 60.* Section 14200.1 of the Financial Code is amended
25 to read:

26 14200.1. There is in the Division of Financial Institutions of
27 the Department of Business Oversight the Office of Credit Unions.
28 The Office of Credit Unions has charge of the execution of the
29 laws of this state relating to credit unions or to the credit union
30 business.

31 ~~SEC. 56.~~

32 *SEC. 61.* Section 14200.2 of the Financial Code is amended
33 to read:

34 14200.2. The chief officer of the Office of Credit Unions is
35 the Deputy Commissioner of the Office of Credit Unions. The
36 Deputy Commissioner of the Office of Credit Unions, under the
37 direction and on behalf of the Senior Deputy Commissioner for
38 Business Oversight for the Division of Financial Institutions, shall
39 administer the laws of this state relating to credit unions or the
40 credit union business. The Deputy Commissioner of the Office of

1 Credit Unions shall be appointed by the Governor and shall hold
2 office at the pleasure of the Governor. The Deputy Commissioner
3 of the Office of Credit Unions shall receive an annual salary as
4 fixed by the Governor.

5 ~~SEC. 57.~~

6 *SEC. 62.* Section 17002 of the Financial Code is amended to
7 read:

8 17002. “Commissioner” means the Commissioner of Business
9 Oversight.

10 ~~SEC. 58.~~

11 *SEC. 63.* Section 18002 of the Financial Code is amended to
12 read:

13 18002. “Commissioner” means the Commissioner of Business
14 Oversight.

15 ~~SEC. 59.~~

16 *SEC. 64.* Section 22005 of the Financial Code is amended to
17 read:

18 22005. “Commissioner” means the Commissioner of Business
19 Oversight.

20 ~~SEC. 60.~~

21 *SEC. 65.* Section 30002 of the Financial Code is amended to
22 read:

23 30002. “Commissioner” means the Commissioner of Business
24 Oversight.

25 ~~SEC. 61.~~

26 *SEC. 66.* Section 31055 of the Financial Code is amended to
27 read:

28 31055. “Commissioner” means the Commissioner of Business
29 Oversight, or other person to whom the commissioner delegates
30 the authority to act for him or her in the particular matter.

31 ~~SEC. 62.~~

32 *SEC. 67.* Section 50003 of the Financial Code is amended to
33 read:

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

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

1 (c) “Buy” includes exchange, offer to buy, or solicitation to
2 buy.

3 (d) “Commissioner” means the Commissioner of Business
4 Oversight.

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

16 (f) “Depository institution” has the same meaning as in Section
17 3 of the Federal Deposit Insurance Act, and includes any credit
18 union.

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

28 (h) “Federal banking agencies” means the Board of Governors
29 of the Federal Reserve System, the Comptroller of the Currency,
30 the National Credit Union Administration, and the Federal Deposit
31 Insurance Corporation.

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

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

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

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

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

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

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

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

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

38 (6) A residential mortgage lender or servicer licensed to make
39 residential mortgage loans under this law or an affiliate or
40 subsidiary of that person.

1 (7) Any person who is licensed as a securities broker or
2 securities dealer under any law of this state, or of the United States,
3 or any employee, officer, or agent of that person, if that person is
4 acting within the scope of authority granted by that license or an
5 affiliate or subsidiary controlled by that broker or dealer, in
6 connection with a transaction involving the offer, sale, purchase,
7 or exchange of one or more promissory notes secured directly or
8 indirectly by liens on real property or a security representing an
9 ownership interest in a pool of promissory notes secured directly
10 or indirectly by liens on real property, and the offer and sale of
11 those securities is qualified under the California Corporate
12 Securities Law of 1968 or registered under federal securities laws,
13 or exempt from qualification or registration.

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

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

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

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

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

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

32 (i) Interest-bearing obligations.

33 (ii) Other contractual obligations representing the right to receive
34 payments from the assets.

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

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

38 (i) Rated as “investment grade” by Standard and Poor’s
39 Corporation or Moody’s Investors Service, Inc. “Investment grade”
40 means that the securities will be rated by Standard and Poor’s

1 Corporation as AAA, AA, A, or BBB or by Moody’s Investors
2 Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings
3 with “+” or “—” designation or other variations that occur within
4 those ratings.

5 (ii) Sold to an institutional investor.

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

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

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

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

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

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

30 (l) “Law” means the California Residential Mortgage Lending
31 Act.

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

39 (n) “Licensee” means, depending on the context, a person
40 licensed under Chapter 2 (commencing with Section 50120),

1 Chapter 3 (commencing with Section 50130), or Chapter 3.5
2 (commencing with Section 50140).

3 (o) “Makes or making residential mortgage loans” or “mortgage
4 lending” means processing, underwriting, or as a lender using or
5 advancing one’s own funds, or making a commitment to advance
6 one’s own funds, to a loan applicant for a residential mortgage
7 loan.

8 (p) “Mortgage loan,” “residential mortgage loan,” or “home
9 mortgage loan” means a federally related mortgage loan as defined
10 in Section 3500.2 of Title 24 of the Code of Federal Regulations,
11 or a loan made to finance construction of a one-to-four family
12 dwelling.

13 (q) “Mortgage servicer” or “residential mortgage loan servicer”
14 means a person that (1) is an approved servicer for the Federal
15 Housing Administration, Veterans Administration, Farmers Home
16 Administration, Government National Mortgage Association,
17 Federal National Mortgage Association, or Federal Home Loan
18 Mortgage Corporation, and (2) directly services or offers to service
19 mortgage loans.

20 (r) “Nationwide Mortgage Licensing System and Registry”
21 means a mortgage licensing system developed and maintained by
22 the Conference of State Bank Supervisors and the American
23 Association of Residential Mortgage Regulators for the licensing
24 and registration of licensed mortgage loan originators.

25 (s) “Net worth” has the meaning set forth in Section 50201.

26 (t) “Own funds” means (1) cash, corporate capital, or warehouse
27 credit lines at commercial banks, savings banks, savings and loan
28 associations, industrial loan companies, or other sources that are
29 liability items on a lender’s financial statements, whether secured
30 or unsecured, or (2) a lender’s affiliate’s cash, corporate capital,
31 or warehouse credit lines at commercial banks or other sources
32 that are liability items on the affiliate’s financial statements,
33 whether secured or unsecured. “Own funds” does not include funds
34 provided by a third party to fund a loan on condition that the third
35 party will subsequently purchase or accept an assignment of that
36 loan.

37 (u) “Person” means a natural person, a sole proprietorship, a
38 corporation, a partnership, a limited liability company, an
39 association, a trust, a joint venture, an unincorporated organization,

1 a joint stock company, a government or a political subdivision of
2 a government, and any other entity.

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

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

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

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

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

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

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

28 ~~SEC. 63.~~

29 *SEC. 68.* Section 8684.2 of the Government Code is amended
30 to read:

31 8684.2. (a) It is the intent of the Legislature:

32 (1) To provide the Governor with appropriate emergency powers
33 in order to enable utilization of available emergency funding to
34 provide guarantees for interim loans to be made by lending
35 institutions, in connection with relief provided for those persons
36 affected by disasters or a state of emergency in affected areas
37 during periods of disaster relief assistance, for the purpose of
38 supplying interim financing to enable small businesses to continue
39 operations pending receipt of federal disaster assistance.

1 (2) That the Governor should utilize this authority to prevent
2 business insolvencies and loss of employment in areas affected by
3 these disasters.

4 (b) In addition to the allocations authorized by Section 8683
5 and the loan guarantee provisions of Section 14030.1 of the
6 Corporations Code, the Governor may allocate funds made
7 available for the purposes of this chapter, in connection with relief
8 provided, in affected areas during the period of federal disaster
9 relief, to the Small Business Expansion Fund for use by the
10 Governor's Office of Business and Economic Development,
11 pursuant to Chapter 1 (commencing with Section 14000) of Part
12 5 of Division 3 of Title 1 of the Corporations Code, to provide
13 guarantees for low-interest interim loans to be made by lending
14 institutions for the purpose of providing interim financing to enable
15 small businesses that have suffered actual physical damage or
16 significant economic losses, as a result of the disaster or state of
17 emergency for which funding under this section is made available,
18 to continue or resume operations pending receipt of loans made
19 or guaranteed by the federal Small Business Administration. The
20 maximum amount of any loan guarantee funded under this
21 paragraph shall not exceed two hundred thousand dollars
22 (\$200,000). Each loan guarantee shall not exceed 95 percent of
23 the loan amount, except that a loan guarantee may be for 100
24 percent of the loan amount if the applicant can demonstrate that
25 access to business records pertinent to the loan application has
26 been precluded by official action prohibiting necessary reentry
27 into the affected business premises or that those business records
28 pertinent to the loan application have been destroyed. The term of
29 the loan shall be determined by the lending institution providing
30 the loan or shall be made payable on the date the proceeds of a
31 loan made or guaranteed by the federal Small Business
32 Administration with respect to the same damage or loss are made
33 available to the borrower, whichever event first occurs.

34 (c) Loan guarantees for which the initial 12-month term has
35 expired and for which an application for disaster assistance funding
36 from the federal Small Business Administration is still pending
37 may be extended until the Small Business Administration has
38 reached a final decision on the application. Applications for interim
39 loans shall be processed in an expeditious manner. Wherever
40 possible, lending institutions shall fund nonconstruction loans

1 within 60 calendar days of application. Loan guarantees for loans
2 that have been denied funding by the federal Small Business
3 Administration, may be extended by the financial institution
4 provided that the loan is for no longer than a maximum of seven
5 years, if the business demonstrates the ability to repay the loan
6 with an extended loan term, and a new credit analysis is provided.
7 All loans extended under this provision shall be repaid in
8 installments of principal and interest, and be fully amortized over
9 the term of the loan. This section shall not preclude the lender from
10 charging reasonable administrative fees in connection with the
11 loan.

12 (d) Allocations pursuant to this section shall, for purposes of
13 all provisions of law, be deemed to be for extraordinary emergency
14 or disaster response operation costs, as provided in Section 8690.6,
15 incurred by state employees assigned to work on the financial
16 development corporation program.

17 (e) The Governor's Office of Business and Economic
18 Development may adopt regulations to implement the loan
19 guarantee program authorized by this section. The Governor's
20 Office of Business and Economic Development may adopt these
21 regulations as emergency regulations in accordance with Chapter
22 3.5 (commencing with Section 11340) of Part 1 of Division 3, and
23 for purposes of that chapter, including Section 11349.6, the
24 adoption of the regulations shall be considered by the Office of
25 Administrative Law to be necessary for the immediate preservation
26 of the public peace, health and safety, and general welfare.
27 Notwithstanding subdivision (e) of Section 11346.1, the regulations
28 shall be repealed within 180 days after their effective date unless
29 the agency complies with Chapter 3.5 (commencing with Section
30 11340) of Part 1 of Division 3, as provided in subdivision (e) of
31 Section 11346.1.

32 (f) Within 60 days of the conclusion of the period for
33 guaranteeing loans under any small business disaster loan guarantee
34 program conducted for a disaster as authorized by Section 8684.2,
35 or Section 14075 of the Corporations Code, the Governor's Office
36 of Business and Economic Development shall provide a report to
37 the Legislature on loan guarantees approved and rejected by gender,
38 ethnic group, type of business and location, and each participating
39 loan institution.

1 ~~SEC. 64.~~

2 *SEC. 69.* Section 11532 of the Government Code is amended
3 to read:

4 11532. For purposes of this chapter, the following terms shall
5 have the following meanings, unless the context requires otherwise:

6 (a) “Chief” means the Chief of the Office of Technology
7 Services.

8 (b) “Technology” includes, but is not limited to, all electronic
9 technology systems and services, automated information handling,
10 system design and analysis, conversion of data, computer
11 programming, information storage and retrieval, and business
12 telecommunications systems and services.

13 (c) “Business telecommunications systems and services”
14 includes, but is not limited to, wireless or wired systems for
15 transport of voice, video, and data communications, network
16 systems, requisite facilities, equipment, system controls, simulation,
17 electronic commerce, and all related interactions between people
18 and machines. Public safety communications are excluded from
19 this definition.

20 (d) “Public agencies” include, but are not limited to, all state
21 and local governmental agencies in the state, including cities,
22 counties, other political subdivisions of the state, state departments,
23 agencies, boards, and commissions, and departments, agencies,
24 boards, and commissions of other states and federal agencies.

25 ~~SEC. 65.~~

26 *SEC. 70.* Section 11534 of the Government Code is amended
27 to read:

28 11534. (a) There is in the Government Operations Agency, in
29 the Department of Technology, the Office of Technology Services.

30 (b) The purpose of this article is to establish a general purpose
31 technology services provider to serve the common technology
32 needs of executive branch entities with accountability to customers
33 for providing secure services that are responsive to client needs at
34 a cost representing best value to the state.

35 (c) The purpose of this chapter is to improve and coordinate the
36 use of technology and to coordinate and cooperate with all public
37 agencies in the state in order to eliminate duplications and to bring
38 about economies that could not otherwise be obtained.

39 (d) Unless the context clearly requires otherwise, whenever the
40 term “Department of Technology Services” appears in any statute,

1 regulation, or contract, it shall be deemed to refer to the Office of
2 Technology Services, and whenever the term “Director of
3 Technology Services” appears in statute, regulation, or contract,
4 it shall be deemed to refer to the Chief of the Office of Technology
5 Services.

6 (e) Unless the context clearly requires otherwise, the Office of
7 Technology Services and the Director of Technology succeed to
8 and are vested with all the duties, powers, purposes,
9 responsibilities, and jurisdiction vested in the former Department
10 of Technology Services and the former Director of Technology
11 Services, or Secretary of California Technology, respectively.

12 (f) All employees serving in state civil service, other than
13 temporary employees, who are engaged in the performance of
14 functions transferred to the Office of Technology Services, are
15 transferred to the Office of Technology Services. The status,
16 positions, and rights of those persons shall not be affected by their
17 transfer and shall continue to be retained by them pursuant to the
18 State Civil Service Act (Part 2 (commencing with Section 18500)
19 of Division 5), except as to positions the duties of which are vested
20 in a position exempt from civil service. The personnel records of
21 all transferred employees shall be transferred to the Office of
22 Technology Services.

23 (g) The property of any office, agency, or department related
24 to functions transferred to the Office of Technology Services is
25 transferred to the Office of Technology Services. If any doubt
26 arises as to where that property is transferred, the Department of
27 General Services shall determine where the property is transferred.

28 (h) All unexpended balances of appropriations and other funds
29 available for use in connection with any function or the
30 administration of any law transferred to the Office of Technology
31 Services shall be transferred to the Office of Technology Services
32 for the use and for the purpose for which the appropriation was
33 originally made or the funds were originally available. If there is
34 any doubt as to where those balances and funds are transferred,
35 the Department of Finance shall determine where the balances and
36 funds are transferred.

37 ~~SEC. 66.~~

38 *SEC. 71.* Section 11538 of the Government Code is amended
39 to read:

1 11538. The Chief of the Office of Technology Services shall
2 be appointed by, and serve at the pleasure of, the Governor, subject
3 to Senate confirmation. The chief shall report to the Director of
4 Technology.

5 ~~SEC. 67.~~

6 *SEC. 72.* Section 11539 of the Government Code is amended
7 to read:

8 11539. The chief shall be responsible for managing the affairs
9 of the Office of Technology Services and shall perform all duties,
10 exercise all powers and jurisdiction, and assume and discharge all
11 responsibilities necessary to carry out the purposes of this chapter.
12 The Office of Technology Services shall employ professional,
13 clerical, technical, and administrative personnel as necessary to
14 carry out this chapter.

15 ~~SEC. 68.~~

16 *SEC. 73.* Section 11540 of the Government Code is amended
17 to read:

18 11540. The Director of Technology shall propose to the
19 Director of Finance rates for Office of Technology Services'
20 services based on a formal rate methodology. The Director of
21 Finance shall approve the proposal based on the reasonableness
22 of the rates and any significant impact on departmental budgets.
23 The Director of Technology and the Director of Finance shall
24 coordinate to develop policies and procedures to implement this
25 section, including, but not limited to, the format and timeframe of
26 the rate proposal.

27 ~~SEC. 69.~~

28 *SEC. 74.* Section 11541 of the Government Code is amended
29 to read:

30 11541. (a) The Office of Technology Services may acquire,
31 install, equip, maintain, and operate new or existing business
32 telecommunications systems and services. Acquisitions for
33 information technology goods and services shall be made pursuant
34 to Chapter 3 (commencing with Section 12100) of Part 2 of
35 Division 2 of the Public Contract Code. To accomplish that
36 purpose, the Office of Technology Services may enter into
37 contracts, obtain licenses, acquire personal property, install
38 necessary equipment and facilities, and do other acts that will
39 provide adequate and efficient business telecommunications
40 systems and services. Any system established shall be made

1 available to all public agencies in the state on terms that may be
2 agreed upon by the agency and the Office of Technology Services.

3 (b) With respect to business telecommunications systems and
4 services, the Office of Technology Services may do all of the
5 following:

6 (1) Provide representation of public agencies before the Federal
7 Communications Commission in matters affecting the state and
8 other public agencies regarding business telecommunications
9 systems and services issues.

10 (2) Provide, upon request, advice to public agencies concerning
11 existing or proposed business telecommunications systems and
12 services between any and all public agencies.

13 (3) Recommend to public agencies rules, regulations,
14 procedures, and methods of operation that it deems necessary to
15 effectuate the most efficient and economical use of business
16 telecommunications systems and services within the state.

17 (4) Carry out the policies of this chapter.

18 (c) The Office of Technology Services has responsibilities with
19 respect to business telecommunications systems, services, policy,
20 and planning, which include, but are not limited to, all of the
21 following:

22 (1) Assessing the overall long-range business
23 telecommunications needs and requirements of the state
24 considering both routine and emergency operations for business
25 telecommunications systems and services, performance, cost,
26 state-of-the-art technology, multiuser availability, security,
27 reliability, and other factors deemed to be important to state needs
28 and requirements.

29 (2) Developing strategic and tactical policies and plans for
30 business telecommunications with consideration for the systems
31 and requirements of public agencies.

32 (3) Recommending industry standards, service level agreements,
33 and solutions regarding business telecommunications systems and
34 services to ensure multiuser availability and compatibility.

35 (4) Providing advice and assistance in the selection of business
36 telecommunications equipment to ensure all of the following:

37 (A) Ensuring that the business telecommunications needs of
38 state agencies are met.

1 (B) Ensuring that procurement is compatible throughout state
2 agencies and is consistent with the state’s strategic and tactical
3 plans for telecommunications.

4 (C) Ensuring that procurement is designed to leverage the buying
5 power of the state and encourage economies of scale.

6 (5) Providing management oversight of statewide business
7 telecommunications systems and services developments.

8 (6) Providing for coordination of, and comment on, plans and
9 policies and operational requirements from departments that utilize
10 business telecommunications systems and services as determined
11 by the Office of Technology Services.

12 (7) Monitoring and participating, on behalf of the state, in the
13 proceedings of federal and state regulatory agencies and in
14 congressional and state legislative deliberations that have an impact
15 on state governmental business telecommunications activities.

16 (d) The Office of Technology Services shall develop and
17 describe statewide policy on the use of business
18 telecommunications systems and services by state agencies. In the
19 development of that policy, the Office of Technology Services
20 shall ensure that access to state business information and services
21 is improved, and that the policy is cost effective for the state and
22 its residents. The Office of Technology Services shall develop
23 guidelines that do all of the following:

24 (1) Describe what types of state business information and
25 services may be accessed using business telecommunications
26 systems and services.

27 (2) Characterize the conditions under which a state agency may
28 utilize business telecommunications systems and services.

29 (3) Characterize the conditions under which a state agency may
30 charge for information and services.

31 (4) Specify pricing policies.

32 (5) Provide other guidance as may be appropriate at the
33 discretion of the Office of Technology Services.

34 ~~SEC. 70.~~

35 *SEC. 75.* Section 11542 of the Government Code is amended
36 to read:

37 11542. (a) (1) The Stephen P. Teale Data Center and the
38 California Health and Human Services Agency Data Center are
39 consolidated within, and their functions are transferred to, the
40 Office of Technology Services.

1 (2) Except as expressly provided otherwise in this chapter, the
2 Office of Technology Services is the successor to, and is vested
3 with, all of the duties, powers, purposes, responsibilities, and
4 jurisdiction of the Stephen P. Teale Data Center, and the California
5 Health and Human Services Agency Data Center. Any reference
6 in statutes, regulations, or contracts to those entities with respect
7 to the transferred functions shall be construed to refer to the Office
8 of Technology Services unless the context clearly requires
9 otherwise.

10 (3) A contract, lease, license, or any other agreement to which
11 either the Stephen P. Teale Data Center or the California Health
12 and Human Services Agency Data Center is a party shall not be
13 void or voidable by reason of this chapter, but shall continue in
14 full force and effect, with the Office of Technology Services
15 assuming all of the rights, obligations, and duties of the Stephen
16 P. Teale Data Center or the California Health and Human Services
17 Agency Data Center, respectively.

18 (4) Notwithstanding subdivision (e) of Section 11793 and
19 subdivision (e) of Section 11797, on and after the effective date
20 of this chapter, the balance of any funds available for expenditure
21 by the Stephen P. Teale Data Center and the California Health and
22 Human Services Agency Data Center, with respect to business
23 telecommunications systems and services functions in carrying
24 out any functions transferred to the Office of Technology Services
25 by this chapter, shall be transferred to the Technology Services
26 Revolving Fund created by Section 11544, and shall be made
27 available for the support and maintenance of the Office of
28 Technology Services.

29 (5) All references in statutes, regulations, or contracts to the
30 former Stephen P. Teale Data Center Fund or the California Health
31 and Human Services Data Center Revolving Fund shall be
32 construed to refer to the Technology Services Revolving Fund
33 unless the context clearly requires otherwise.

34 (6) All books, documents, records, and property of the Stephen
35 P. Teale Data Center and the California Health and Human Services
36 Agency Data Center, excluding the Systems Integration Division,
37 shall be transferred to the Office of Technology Services.

38 (7) (A) All officers and employees of the former Stephen P.
39 Teale Data Center and the California Health and Human Services

1 Agency Data Center, are transferred to the Office of Technology
2 Services.

3 (B) The status, position, and rights of any officer or employee
4 of the Stephen P. Teale Data Center and the California Health and
5 Human Services Agency Data Center, shall not be affected by the
6 transfer and consolidation of the functions of that officer or
7 employee to the Office of Technology Services.

8 (b) (1) All duties and functions of the Telecommunications
9 Division of the Department of General Services are transferred to
10 the Department of Technology.

11 (2) Unless the context clearly requires otherwise, whenever the
12 term “Telecommunications Division of the Department of General
13 Services” or “California Technology Agency” appears in any
14 statute, regulation, or contract, it shall be deemed to refer to the
15 Department of Technology.

16 (3) All employees serving in state civil service, other than
17 temporary employees, who are engaged in the performance of
18 functions transferred to the Department of Technology, are
19 transferred to the Department of Technology. The status, positions,
20 and rights of those persons shall not be affected by their transfer
21 and shall continue to be retained by them pursuant to the State
22 Civil Service Act (Part 2 (commencing with Section 18500) of
23 Division 5), except as to positions the duties of which are vested
24 in a position exempt from civil service. The personnel records of
25 all transferred employees shall be transferred to the Department
26 of Technology.

27 (4) The property of any office, agency, or department related
28 to functions transferred to the Department of Technology, are
29 transferred to the Department of Technology. If any doubt arises
30 as to where that property is transferred, the Department of General
31 Services shall determine where the property is transferred.

32 (5) All unexpended balances of appropriations and other funds
33 available for use in connection with any function or the
34 administration of any law transferred to the Department of
35 Technology shall be transferred to the Department of Technology
36 for the use and for the purpose for which the appropriation was
37 originally made or the funds were originally available. If there is
38 any doubt as to where those balances and funds are transferred,
39 the Department of Finance shall determine where the balances and
40 funds are transferred.

1 ~~SEC. 71.~~

2 *SEC. 76.* Section 11544 of the Government Code is amended
3 to read:

4 11544. (a) The Technology Services Revolving Fund, hereafter
5 known as the fund, is hereby created within the State Treasury.
6 The fund shall be administered by the Director of Technology to
7 receive all revenues from the sale of technology or technology
8 services provided for in this chapter, for other services rendered
9 by the Department of Technology, and all other moneys properly
10 credited to the Department of Technology from any other source,
11 to pay, upon appropriation by the Legislature, all costs arising
12 from this chapter and rendering of services to state and other public
13 agencies, including, but not limited to, employment and
14 compensation of necessary personnel and expenses, such as
15 operating and other expenses of the Department of Technology,
16 and costs associated with approved information technology
17 projects, and to establish reserves. At the discretion of the Director
18 of Technology, segregated, dedicated accounts within the fund
19 may be established. The amendments made to this section by the
20 act adding this sentence shall apply to all revenues earned on or
21 after July 1, 2010.

22 (b) The fund shall consist of all of the following:

23 (1) Moneys appropriated and made available by the Legislature
24 for the purposes of this chapter.

25 (2) Any other moneys that may be made available to the
26 Department of Technology from any other source, including the
27 return from investments of moneys by the Treasurer.

28 (c) The Department of Technology may collect payments from
29 public agencies for providing services to those agencies that the
30 agencies have requested from the Department of Technology. The
31 Department of Technology may require monthly payments by
32 client agencies for the services the agencies have requested.
33 Pursuant to Section 11255, the Controller shall transfer any
34 amounts so authorized by the Department of Technology,
35 consistent with the annual budget of each department, to the fund.
36 The Department of Technology shall notify each affected state
37 agency upon requesting the Controller to make the transfer.

38 (d) At the end of any fiscal year, if the balance remaining in the
39 fund at the end of that fiscal year exceeds 25 percent of the portion
40 of the Department of Technology's current fiscal year budget used

1 for support of data center and other client services, the excess
2 amount shall be used to reduce the billing rates for services
3 rendered during the following fiscal year.

4 ~~SEC. 72.~~

5 *SEC. 77.* Section 11546 of the Government Code is amended
6 to read:

7 11546. (a) The Department of Technology shall be responsible
8 for the approval and oversight of information technology projects,
9 which shall include, but are not limited to, all of the following:

10 (1) Establishing and maintaining a framework of policies,
11 procedures, and requirements for the initiation, approval,
12 implementation, management, oversight, and continuation of
13 information technology projects. Unless otherwise required by
14 law, a state department shall not procure oversight services of
15 information technology projects without the approval of the
16 Department of Technology.

17 (2) Evaluating information technology projects based on the
18 business case justification, resources requirements, proposed
19 technical solution, project management, oversight and risk
20 mitigation approach, and compliance with statewide strategies,
21 policies, and procedures. Projects shall continue to be funded
22 through the established Budget Act process.

23 (3) Consulting with agencies during initial project planning to
24 ensure that project proposals are based on well-defined
25 programmatic needs, clearly identify programmatic benefits, and
26 consider feasible alternatives to address the identified needs and
27 benefits consistent with statewide strategies, policies, and
28 procedures.

29 (4) Consulting with agencies prior to project initiation to review
30 the project governance and management framework to ensure that
31 it is best designed for success and will serve as a resource for
32 agencies throughout the project implementation.

33 (5) Requiring agencies to provide information on information
34 technology projects including, but not limited to, all of the
35 following:

36 (A) The degree to which the project is within approved scope,
37 cost, and schedule.

38 (B) Project issues, risks, and corresponding mitigation efforts.

39 (C) The current estimated schedule and costs for project
40 completion.

1 (6) Requiring agencies to perform remedial measures to achieve
2 compliance with approved project objectives. These remedial
3 measures may include, but are not limited to, any of the following:

4 (A) Independent assessments of project activities, the cost of
5 which shall be funded by the agency administering the project.

6 (B) Establishing remediation plans.

7 (C) Securing appropriate expertise, the cost of which shall be
8 funded by the agency administering the project.

9 (D) Requiring additional project reporting.

10 (E) Requiring approval to initiate any action identified in the
11 approved project schedule.

12 (7) Suspending, reinstating, or terminating information
13 technology projects. The Department of Technology shall notify
14 the Joint Legislative Budget Committee of any project suspension,
15 reinstatement, and termination within 30 days of that suspension,
16 reinstatement, or termination.

17 (8) Establishing restrictions or other controls to mitigate
18 nonperformance by agencies, including, but not limited to, any of
19 the following:

20 (A) The restriction of future project approvals pending
21 demonstration of successful correction of the identified
22 performance failure.

23 (B) The revocation or reduction of authority for state agencies
24 to initiate information technology projects or acquire information
25 technology or telecommunications goods or services.

26 (b) The Department of Technology shall have the authority to
27 delegate to another agency any authority granted under this section
28 based on its assessment of the agency's project management,
29 project oversight, and project performance.

30 ~~SEC. 73.~~

31 *SEC. 78.* Section 11549 of the Government Code is amended
32 to read:

33 11549. (a) There is in state government, in the Department of
34 Technology, the Office of Information Security. The purpose of
35 the Office of Information Security is to ensure the confidentiality,
36 integrity, and availability of state systems and applications, and
37 to promote and protect privacy as part of the development and
38 operations of state systems and applications to ensure the trust of
39 the residents of this state.

1 (b) The office shall be under the direction of a chief, who shall
2 be appointed by, and serve at the pleasure of, the Governor. The
3 chief shall report to the Director of Technology, and shall lead the
4 Office of Information Security in carrying out its mission.

5 (c) The duties of the Office of Information Security, under the
6 direction of the chief, shall be to provide direction for information
7 security and privacy to state government agencies, departments,
8 and offices, pursuant to Section 11549.3.

9 (d) (1) Unless the context clearly requires otherwise, whenever
10 the term “Office of Information Security and Privacy Protection”
11 appears in any statute, regulation, or contract, it shall be deemed
12 to refer to the Office of Information Security, and whenever the
13 term “executive director of the Office of Information Security and
14 Privacy Protection” appears in statute, regulation, or contract, it
15 shall be deemed to refer to the Chief of the Office of Information
16 Security.

17 (2) All employees serving in state civil service, other than
18 temporary employees, who are engaged in the performance of
19 functions transferred from the Office of Information Security and
20 Privacy Protection to the Office of Information Security, are
21 transferred to the Office of Information Security. The status,
22 positions, and rights of those persons shall not be affected by their
23 transfer and shall continue to be retained by them pursuant to the
24 State Civil Service Act (Part 2 (commencing with Section 18500)
25 of Division 5), except as to positions the duties of which are vested
26 in a position exempt from civil service. The personnel records of
27 all transferred employees shall be transferred to the Office of
28 Information Security.

29 (3) The property of any office, agency, or department related
30 to functions transferred to the Office of Information Security is
31 transferred to the Office of Information Security. If any doubt
32 arises as to where that property is transferred, the Department of
33 General Services shall determine where the property is transferred.

34 (4) All unexpended balances of appropriations and other funds
35 available for use in connection with any function or the
36 administration of any law transferred to the Office of Information
37 Security shall be transferred to the Office of Information Security
38 for the use and for the purpose for which the appropriation was
39 originally made or the funds were originally available. If there is
40 any doubt as to where those balances and funds are transferred,

1 the Department of Finance shall determine where the balances and
2 funds are transferred.

3 ~~SEC. 74.~~

4 *SEC. 79.* Section 11549.1 of the Government Code is amended
5 to read:

6 11549.1. As used in this article, the following terms have the
7 following meanings:

8 (a) “Chief” means the Chief of the Office of Information
9 Security.

10 (b) “Office” means the Office of Information Security.

11 (c) “Program” means an information security program
12 established pursuant to Section 11549.3.

13 ~~SEC. 75.~~

14 *SEC. 80.* Section 11549.3 of the Government Code is amended
15 to read:

16 11549.3. (a) The Chief of the Office of Information Security
17 shall establish an information security program. The program
18 responsibilities include, but are not limited to, all of the following:

19 (1) The creation, updating, and publishing of information
20 security and privacy policies, standards, and procedures for state
21 agencies in the State Administrative Manual.

22 (2) The creation, issuance, and maintenance of policies,
23 standards, and procedures directing state agencies to effectively
24 manage security and risk for all of the following:

25 (A) Information technology, which includes, but is not limited
26 to, all electronic technology systems and services, automated
27 information handling, system design and analysis, conversion of
28 data, computer programming, information storage and retrieval,
29 telecommunications, requisite system controls, simulation,
30 electronic commerce, and all related interactions between people
31 and machines.

32 (B) Information that is identified as mission critical, confidential,
33 sensitive, or personal, as defined and published by the office.

34 (3) The creation, issuance, and maintenance of policies,
35 standards, and procedures directing state agencies for the collection,
36 tracking, and reporting of information regarding security and
37 privacy incidents.

38 (4) The creation, issuance, and maintenance of policies,
39 standards, and procedures directing state agencies in the

1 development, maintenance, testing, and filing of each agency's
2 disaster recovery plan.

3 (5) Coordination of the activities of agency information security
4 officers, for purposes of integrating statewide security initiatives
5 and ensuring compliance with information security and privacy
6 policies and standards.

7 (6) Promotion and enhancement of the state agencies' risk
8 management and privacy programs through education, awareness,
9 collaboration, and consultation.

10 (7) Representing the state before the federal government, other
11 state agencies, local government entities, and private industry on
12 issues that have statewide impact on information security and
13 privacy.

14 (b) An information security officer appointed pursuant to Section
15 11546.1 shall implement the policies and procedures issued by the
16 Office of Information Security, including, but not limited to,
17 performing all of the following duties:

18 (1) Comply with the information security and privacy policies,
19 standards, and procedures issued pursuant to this chapter by the
20 Office of Information Security.

21 (2) Comply with filing requirements and incident notification
22 by providing timely information and reports as required by policy
23 or directives of the office.

24 (c) The office may conduct, or require to be conducted,
25 independent security assessments of any state agency, department,
26 or office, the cost of which shall be funded by the state agency,
27 department, or office being assessed.

28 (d) The office may require an audit of information security to
29 ensure program compliance, the cost of which shall be funded by
30 the state agency, department, or office being audited.

31 (e) The office shall report to the Department of Technology any
32 state agency found to be noncompliant with information security
33 program requirements.

34 ~~SEC. 76.~~

35 *SEC. 81.* Section 12802.8 of the Government Code is amended
36 to read:

37 12802.8. The Governor may, with respect to the Transportation
38 Agency, appoint a Deputy Secretary of Housing Coordination,
39 who shall serve as the secretary's primary advisor on housing
40 matters, including, but not limited to, sustainable growth policy

1 matters, and other strategies to achieve the state’s greenhouse gas
2 emission reduction objectives as it pertains to those housing
3 matters.

4 The Deputy Secretary of Housing Coordination shall hold office
5 at the pleasure of the Governor and shall receive a salary as shall
6 be fixed by the Governor with the approval of the Department of
7 Finance.

8 *SEC. 82. Section 13995.20 of the Government Code is amended*
9 *to read:*

10 13995.20. Unless the context otherwise requires, the definitions
11 in this section govern the construction of this chapter.

12 (a) “Appointed commissioner” means a commissioner appointed
13 by the Governor pursuant to paragraph (2) of subdivision (b) of
14 Section 13995.40.

15 (b) “Assessed business” means a person required to pay an
16 assessment pursuant to this chapter, and until the first assessment
17 is levied, any person authorized to vote for the initial referendum.
18 An assessed business shall not include a public entity or a
19 corporation when a majority of the corporation’s board of directors
20 is appointed by a public official or public entity, or serves on the
21 corporation’s board of directors by virtue of being elected to public
22 office, or both.

23 (c) “Commission” means the California Travel and Tourism
24 Commission.

25 (d) “Director” means the Director of the Governor’s Office of
26 Business and Economic Development.

27 ~~(e)~~

28 (e) “Elected commissioner” means a commissioner elected
29 pursuant to subdivision (d) of Section 13995.40.

30 ~~(e)~~

31 (f) “Industry category” means the following classifications
32 within the tourism industry:

33 (1) Accommodations.

34 (2) Restaurants and retail.

35 (3) Attractions and recreation.

36 (4) Transportation and travel services, other than passenger car
37 rental.

38 (5) Passenger car rental.

39 ~~(f)~~

1 (g) “Industry segment” means a portion of an industry category.
 2 For example, motor home rentals are an industry segment of the
 3 transportation and travel services industry category.

4 ~~(g)~~

5 (h) “Maximum assessment” means a dollar amount, adopted by
 6 the commission, over which an assessed business shall not be
 7 required to pay. The commission may adopt differing amounts of
 8 maximum assessment for each industry category or industry
 9 segment.

10 ~~(h)~~

11 (i) “Office” means the Office of Tourism, also popularly referred
 12 to as the Division of Tourism, within the ~~Business, Transportation~~
 13 ~~and Housing Agency~~. *Governor’s Office of Business and Economic*
 14 *Development*.

15 ~~(i)~~

16 (j) “Person” means an individual, public entity, firm,
 17 corporation, association, or any other business unit, whether
 18 operating on a for-profit or nonprofit basis.

19 ~~(j)~~

20 (k) “Referendum” means any vote by mailed ballot of measures
 21 recommended by the commission and approved by the ~~secretary~~
 22 ~~director~~ pursuant to Section 13995.60, except for the initial
 23 referendum, which shall consist of measures contained in the
 24 selection committee report, discussed in Section 13995.30.

25 ~~(k) “Secretary” means the Secretary of Business, Transportation~~
 26 ~~and Housing.~~

27 (l) “Selection committee” means the Tourism Selection
 28 Committee described in Article 3 (commencing with Section
 29 13995.30).

30 ~~(m) This section shall become operative only if the Secretary~~
 31 ~~of Business, Transportation and Housing provides notice to the~~
 32 ~~Legislature and the Secretary of State and posts notice on its~~
 33 ~~Internet Web site that the conditions described in Section 13995.92~~
 34 ~~have been satisfied.~~

35 ~~SEC. 77.~~

36 *SEC. 83.* The heading of Article 5 (commencing with Section
 37 13995.50) of Chapter 1 of Part 4.7 of Division 3 of Title 2 of the
 38 Government Code is amended to read:

39

40

Article 5. Director

1 ~~SEC. 78.~~

2 *SEC. 84.* Section 13995.60 of the Government Code is amended
3 to read:

4 13995.60. (a) As used in this article and Article 7 (commencing
5 with Section 13995.65), “assessment level” means the estimated
6 gross dollar amount received by assessment from all assessed
7 businesses on an annual basis, and “assessment formula” means
8 the allocation method used within each industry segment (for
9 example, percentage of gross revenue or percentage of transaction
10 charges).

11 (b) Commencing on January 1, 2003, a referendum shall be
12 called every two years, and the commission, by adopted resolution,
13 shall determine the slate of individuals who will run for
14 commissioner. The resolution shall also cover, but not be limited
15 to, the proposed assessment level for each industry category, based
16 upon specified assessment formulae, together with necessary
17 information to enable each assessed business to determine what
18 its individual assessment would be. Commencing with the
19 referendum held in 2007 and every six years thereafter, the
20 resolution shall also cover the termination or continuation of the
21 commission. The resolution may also include an amended industry
22 segment allocation formula and the percentage allocation of
23 assessments between industry categories and segments. The
24 commission may specify in the resolution that a special, lower
25 assessment rate that was set pursuant to subdivision (c) of Section
26 13995.30 for a particular business will no longer apply due to
27 changes in the unique circumstance that originally justified the
28 lower rate. The resolution may include up to three possible
29 assessment levels for each industry category, from which the
30 assessed businesses will select one assessment level for each
31 industry category by plurality weighted vote.

32 (c) The commission shall deliver to the director the resolution
33 described in subdivision (b). The director shall call a referendum
34 containing the information required by subdivision (b) plus any
35 additional matters complying with the procedures of subdivision
36 (b) of Section 13995.62.

37 (d) When the director calls a referendum, all assessed businesses
38 shall be sent a ballot for the referendum. Every ballot that the
39 secretary receives by the ballot deadline shall be counted, utilizing

1 the weighted formula adopted initially by the selection committee,
2 and subsequently amended by referendum.

3 (e) If the commission's assessment level is significantly different
4 from what was projected when the existing assessment formula
5 was last approved by referendum, a majority of members, by
6 weighted votes of an industry category, may petition for a
7 referendum to change the assessment formula applicable to that
8 industry category.

9 (f) If the referendum includes more than one possible assessment
10 rate for each industry category, the rate with the plurality of
11 weighted votes within a category shall be adopted.

12 (g) Notwithstanding any other provision of this section, if the
13 commission delivers to the director a resolution pertaining to any
14 matter described in subdivision (b), the director shall call a
15 referendum at a time or times other than as specified in this section.
16 Each referendum shall contain only those matters contained in the
17 resolution.

18 (h) Notwithstanding any other provision of this section, the
19 director shall identify, to the extent reasonably feasible, those
20 businesses that would become newly assessed due to a change in
21 category, segment, threshold, or exemption status sought via
22 referendum, and provide those businesses the opportunity to vote
23 in that referendum.

24 ~~SEC. 79.~~

25 *SEC. 85.* Section 13995.64.5 of the Government Code is
26 amended to read:

27 13995.64.5. Notwithstanding subdivision (a) of Section
28 13995.64, if an assessed business within the passenger car rental
29 category pays an assessment greater than the maximum assessment,
30 determined by the commission for other industry categories, the
31 weighted percentage assigned to that assessed business shall be
32 the same as though its assessment were equal to the highest
33 maximum assessment.

34 ~~SEC. 80.~~

35 *SEC. 86.* Section 13995.65.5 of the Government Code is
36 amended to read:

37 13995.65.5. Notwithstanding Section 13995.65 or any other
38 provision of this chapter, for purposes of calculating the assessment
39 for a business within the passenger car rental category, the
40 assessment shall be collected only on each rental transaction that

1 commences at either an airport or at a hotel or other overnight
2 lodging with respect to which a city, city and county, or county is
3 authorized to levy a tax as described in Section 7280 of the
4 Revenue and Taxation Code. A transaction commencing at an
5 airport or hotel or other overnight lodging subject to a transient
6 occupancy tax as described in Section 7280 of the Revenue and
7 Taxation Code, including those that commence at a location that
8 might otherwise by regulation be exempt from assessment, shall
9 be subject to the assessment. The assessment shall always be
10 expressed as a fixed percentage of the amount of the rental
11 transaction.

12 ~~SEC. 81. Section 13995.92 of the Government Code is~~
13 ~~repealed.~~

14 *SEC. 87. Section 13995.92 of the Government Code is amended*
15 *to read:*

16 13995.92. (a) The California Travel and Tourism Commission
17 shall submit a referendum to the passenger rental car industry as
18 soon as possible, but not later than March 31, 2007. The
19 referendum shall propose an assessment level upon the passenger
20 rental car industry, as an industry category, under this chapter. The
21 proposed assessment rate shall be set at a level determined by the
22 commission that will generate funding that will be sufficient, when
23 aggregated together with other funding for the commission, minus
24 amounts reverted to the general fund pursuant to Item 0520-495
25 of Section 2 of the Budget Act of 2006, for a spending plan for
26 the 2006–07 fiscal year of twenty-five million dollars
27 (\$25,000,000), and for the 2007–08 fiscal year of fifty million
28 dollars (\$50,000,000).

29 ~~(b) The commission shall report to the Secretary of Business,~~
30 ~~Transportation and Housing if the referendum and assessment rates~~
31 ~~described in subdivision (a) are agreed to. The secretary shall~~
32 ~~immediately provide notice of that agreement to the Legislature~~
33 ~~and the Secretary of State and shall also post notice of that~~
34 ~~agreement on its Internet Web site.~~

35 ~~SEC. 82.~~

36 *SEC. 88. Section 13997.7 of the Government Code is amended*
37 *to read:*

38 13997.7. (a) Notwithstanding any other provision of law,
39 effective January 1, 2008, the Economic Adjustment Assistance
40 Grant funded through the United States Economic Development

1 Administration under Title IX of the Public Works and Economic
 2 Development Act of 1965 (Grant No. 07-19-02709 and
 3 07-19-2709.1) shall be administered by the Director of the
 4 Governor’s Office of Business and Economic Development, and,
 5 for the purpose of state administration of this grant, the Director
 6 of the Governor’s Office of Business and Economic Development
 7 shall be deemed to be the successor to the former Secretary of
 8 Technology, Trade and Commerce. The Director of the Governor’s
 9 Office of Business and Economic Development may assign and
 10 contract administration of the grant to a public agency created
 11 pursuant to Chapter 5 (commencing with Section 6500) of Division
 12 7 of Title 1.

13 (b) On January 1, 2008, all federal moneys held in the Sudden
 14 and Severe Economic Dislocation Grant Account within the Special
 15 Deposit Fund are hereby transferred to the Small Business
 16 Expansion Fund created pursuant to Section 14030 of the
 17 Corporations Code for expenditure by the Governor’s Office of
 18 Business and Economic Development pursuant to Article 9
 19 (commencing with Section 14070) of the Corporations Code for
 20 purposes of the Sudden and Severe Economic Dislocation Grant
 21 program, or other purposes permitted by the cognizant federal
 22 agency.

23 (c) All loan repayments received on or after January 1, 2008,
 24 for the Sudden and Severe Economic Dislocation Grant program
 25 loans issued pursuant to former Section 15327 (repealed by Section
 26 1.8 of Chapter 229 of the Statutes of 2003 (AB 1757)) and this
 27 section, shall be deposited into the Small Business Expansion Fund
 28 and shall be available to the Governor’s Office of Business and
 29 Economic Development for expenditure pursuant to the provisions
 30 of Article 9 (commencing with Section 14070) of the Corporations
 31 Code for the Sudden and Severe Economic Dislocation Grant
 32 program, or other purposes permitted by the cognizant federal
 33 agency.

34 ~~SEC. 83.~~

35 *SEC. 89.* Section 14030 of the Government Code is amended
 36 to read:

37 14030. The powers and duties of the department include, but
 38 are not limited to, all of the following activities:

39 (a) Supporting the commission in coordinating and developing,
 40 in cooperation with local and regional entities, comprehensive

1 balanced transportation planning and policy for the movement of
2 people and goods within the state.

3 (b) Coordinating and assisting, upon request of, the various
4 public and private transportation entities in strengthening their
5 development and operation of balanced integrated mass
6 transportation, highway, aviation, maritime, railroad, and other
7 transportation facilities and services in support of statewide and
8 regional goals.

9 (c) Developing, in cooperation with local and regional
10 transportation entities, the full potential of all resources and
11 opportunities that are now, and may become, available to the state
12 and to regional and local agencies for meeting California's
13 transportation needs, as provided by statutes and, in particular,
14 maximizing the amount of federal funds that may be available to
15 the state and increasing the efficiency by which those funds are
16 utilized.

17 (d) Planning, designing, constructing, operating, and maintaining
18 those transportation systems that the Legislature has made, or may
19 make, the responsibility of the department; provided that the
20 department is not authorized to assume the functions of project
21 planning, designing, constructing, operating, or maintaining
22 maritime or aviation facilities without express prior approval of
23 the Legislature with the exception of those aviation functions that
24 have been designated for the department in the Public Utilities
25 Code.

26 (e) Coordinating and developing transportation research projects
27 of statewide interest.

28 (f) Exercising other functions, powers, and duties as are or may
29 be provided for by law.

30 (g) With the Department of Housing and Community
31 Development, investigating and reporting to the Secretary of
32 Transportation and the Secretary of Business, Consumer Services
33 and Housing upon the consistency between state, local, and federal
34 housing plans and programs and state, local, and federal
35 transportation plans and programs.

36 ~~SEC. 84.~~

37 *SEC. 90.* Section 14998.3 of the Government Code is amended
38 to read:

39 14998.3. (a) The commission shall submit a list of
40 recommended candidates for the position of Director of the Film

1 Commission to the Governor for consideration. The Governor
2 shall appoint the director.

3 (b) The Director of the Film Commission shall receive a salary
4 to be determined by the Department of Human Resources.

5 (c) The Director of the Governor's Office of Business and
6 Economic Development, or his or her designee, shall act as the
7 director during the absence from the state or other temporary
8 absence, disability, or unavailability of the director, or during a
9 vacancy in that position.

10 ~~SEC. 85.~~

11 *SEC. 91.* Section 14998.4 of the Government Code is amended
12 to read:

13 14998.4. (a) The commission shall meet at least quarterly and
14 shall select a chairperson and a vice chairperson from among its
15 members. The vice chairperson shall act as chairperson in the
16 chairperson's absence.

17 (b) Each commission member shall serve without compensation
18 but shall be reimbursed for traveling outside the county in which
19 he or she resides to attend meetings.

20 (c) The commission shall work to encourage motion picture and
21 television filming in California and to that end, shall exercise all
22 of the powers provided in this chapter.

23 (d) The commission shall make recommendations to the
24 Legislature, the Governor, the Governor's Office of Business and
25 Economic Development, and other state agencies on legislative or
26 administrative actions that may be necessary or helpful to maintain
27 and improve the position of the state's motion picture industry in
28 the national and world markets.

29 (e) In addition, subject to the provision of funding appropriated
30 for these purposes, the commission shall do all of the following:

31 (1) Adopt guidelines for a standardized permit to be used by
32 state agencies and the director.

33 (2) Approve or modify the marketing and promotion plan
34 developed by the director pursuant to subdivision (d) of Section
35 14998.9 to promote filmmaking in the state.

36 (3) Conduct workshops and trade shows.

37 (4) Provide expertise in promotional activities.

38 (5) Hold hearings.

39 (6) Adopt its own operational rules and procedures.

1 (7) Counsel the Legislature and the Governor on issues relating
2 to the motion picture industry.

3 ~~SEC. 86.~~

4 *SEC. 92.* Section 14998.6 of the Government Code is amended
5 to read:

6 14998.6. The director of the commission shall provide staff
7 support to the California Film Commission. When needed, the
8 Director of the Governor’s Office of Business and Economic
9 Development may assign additional staff on a temporary or
10 permanent basis.

11 ~~SEC. 87.~~

12 *SEC. 93.* Section 14998.7 of the Government Code is amended
13 to read:

14 14998.7. Any funds appropriated to, or for use by, the
15 California Film Commission for purposes of this chapter, shall be
16 under the control of the Director of the Governor’s Office of
17 Business and Economic Development or his or her designee.

18 ~~SEC. 88.~~

19 *SEC. 94.* Section 15251 of the Government Code is amended
20 to read:

21 15251. Unless the context requires otherwise, as used in this
22 part, the following terms shall have the following meanings:

23 (a) “Department” means the Department of Technology.

24 (b) “Office” means the Public Safety Communications Office
25 established by this part.

26 ~~SEC. 89.~~

27 *SEC. 95.* Section 15277 of the Government Code is amended
28 to read:

29 15277. The Public Safety Communications Office is established
30 within the department. The duties of the office shall include, but
31 not be limited to, all of the following:

32 (a) Assessing the overall long-range public safety
33 communications needs and requirements of the state considering
34 emergency operations, performance, cost, state-of-the-art
35 technology, multiuser availability, security, reliability, and other
36 factors deemed to be important to state needs and requirements.

37 (b) Developing strategic and tactical policies and plans for public
38 safety communications with consideration for the systems and
39 requirements of the state and all public agencies in this state, and
40 preparing an annual strategic communications plan that includes

1 the feasibility of interfaces with federal and other state
2 telecommunications networks and services.

3 (c) Recommending industry standards for public safety
4 communications systems to ensure multiuser availability and
5 compatibility.

6 (d) Providing advice and assistance in the selection of
7 communications equipment to ensure that the public safety
8 communications needs of state agencies are met and that
9 procurements are compatible throughout state agencies and are
10 consistent with the state's strategic and tactical plans for public
11 safety communications.

12 (e) Providing management oversight of statewide public safety
13 communications systems developments.

14 (f) Providing for coordination of, and comment on, plans,
15 policies, and operational requirements from departments that utilize
16 public safety communications in support of their principal function,
17 such as the California Emergency Management Agency, National
18 Guard, health and safety agencies, and others with primary public
19 safety communications programs.

20 (g) Monitoring and participating on behalf of the state in the
21 proceedings of federal and state regulatory agencies and in
22 congressional and state legislative deliberations that have an impact
23 on state government public safety communications activities.

24 (h) Developing plans regarding teleconferencing as an
25 alternative to state travel during emergency situations.

26 (i) Ensuring that all radio transmitting devices owned or operated
27 by state agencies and departments are licensed, installed, and
28 maintained in accordance with the requirements of federal law. A
29 request for a federally required license for a state-owned radio
30 transmitting device shall be sought only in the name of the "State
31 of California."

32 (j) Acquiring, installing, equipping, maintaining, and operating
33 new or existing public safety communications systems and facilities
34 for public safety agencies. To accomplish that purpose, the office
35 is authorized to enter into contracts, obtain licenses, acquire
36 property, install necessary equipment and facilities, and do other
37 necessary acts to provide adequate and efficient public safety
38 communications systems. Any systems established shall be
39 available to all public agencies in the state on terms that may be
40 agreed upon by the public agency and the office.

1 (k) Acquiring, installing, equipping, maintaining, and operating
2 all new or replacement microwave communications systems
3 operated by the state, except microwave equipment used
4 exclusively for traffic signal and signing control, traffic metering,
5 and roadway surveillance systems. To accomplish that purpose,
6 the office is authorized to enter into contracts, obtain licenses,
7 acquire property, install necessary equipment and facilities, and
8 do other necessary acts to provide adequate and efficient
9 microwave communications systems. Any system established shall
10 be available to all public safety agencies in the state on terms that
11 may be agreed upon by the public agency and the office.

12 (l) This chapter shall not apply to Department of Justice
13 communications operated pursuant to Chapter 2.5 (commencing
14 with Section 15150) of Part 6.

15 ~~SEC. 90.~~

16 *SEC. 96.* Section 53108.5 of the Government Code is amended
17 to read:

18 53108.5. "Office," as used in this article, means the Public
19 Safety Communications Office within the Department of
20 Technology.

21 ~~SEC. 91.~~

22 *SEC. 97.* Section 53113 of the Government Code is amended
23 to read:

24 53113. The Legislature finds that, because of overlapping
25 jurisdiction of public agencies, public safety agencies, and
26 telephone service areas, a general overview or plan should be
27 developed prior to the establishment of any system. In order to
28 ensure that proper preparation and implementation of those systems
29 is accomplished by all public agencies by December 31, 1985, the
30 office, with the advice and assistance of the Attorney General,
31 shall secure compliance by public agencies as provided in this
32 article.

33 ~~SEC. 92.~~

34 *SEC. 98.* Section 53114 of the Government Code is amended
35 to read:

36 53114. The office, with the advice and assistance of the
37 Attorney General, shall coordinate the implementation of systems
38 established pursuant to the provisions of this article. The office,
39 with the advice and assistance of the Attorney General, shall assist
40 local public agencies and local public safety agencies in obtaining

1 financial help to establish emergency telephone service, and shall
2 aid agencies in the formulation of concepts, methods, and
3 procedures that will improve the operation of systems required by
4 this article and that will increase cooperation between public safety
5 agencies.

6 ~~SEC. 93.~~

7 *SEC. 99.* Section 53114.1 of the Government Code is amended
8 to read:

9 53114.1. To accomplish the responsibilities specified in this
10 article, the office is directed to consult at regular intervals with the
11 State Fire Marshal, the State Department of Public Health, the
12 Office of Traffic Safety, the Office of Emergency Services, a local
13 representative from a city, a local representative from a county,
14 the public utilities in this state providing telephone service, the
15 Association of Public-Safety Communications Officials, the
16 Emergency Medical Services Authority, the Department of the
17 California Highway Patrol, and the Department of Forestry and
18 Fire Protection. These agencies shall provide all necessary
19 assistance and consultation to the office to enable it to perform its
20 duties specified in this article.

21 ~~SEC. 94.~~

22 *SEC. 100.* Section 53114.2 of the Government Code is amended
23 to read:

24 53114.2. On or before December 31, 1976, and each
25 even-numbered year thereafter, after consultation with all agencies
26 specified in Section 53114.1, the office shall review and update
27 technical and operational standards for public agency systems.

28 ~~SEC. 95.~~

29 *SEC. 101.* Section 53115 of the Government Code is amended
30 to read:

31 53115. The office shall monitor all emergency telephone
32 systems to ensure they comply with minimal operational and
33 technical standards as established by the office. If any system does
34 not comply the office shall notify in writing the public agency or
35 agencies operating the system of its deficiencies. The public agency
36 shall bring the system into compliance with the operational and
37 technical standards within 60 days of notice by the office. Failure
38 to comply within this time shall subject the public agency to action
39 by the Attorney General pursuant to Section 53116.

1 ~~SEC. 96.~~

2 *SEC. 102.* Section 53115.1 of the Government Code is amended
3 to read:

4 53115.1. (a) There is in state government the State 911
5 Advisory Board.

6 (b) The advisory board shall be comprised of the following
7 members appointed by the Governor who shall serve at the pleasure
8 of the Governor.

9 (1) The Chief of the California 911 Emergency Communications
10 Office shall serve as the nonvoting chair of the board.

11 (2) One representative from the Department of the California
12 Highway Patrol.

13 (3) Two representatives on the recommendation of the California
14 Police Chiefs Association.

15 (4) Two representatives on the recommendation of the California
16 State Sheriffs' Association.

17 (5) Two representatives on the recommendation of the California
18 Fire Chiefs Association.

19 (6) Two representatives on the recommendation of the CalNENA
20 Executive Board.

21 (7) One representative on the joint recommendation of the
22 executive boards of the state chapters of the Association of
23 Public-Safety Communications Officials-International, Inc.

24 (c) Recommending authorities shall give great weight and
25 consideration to the knowledge, training, and expertise of the
26 appointee with respect to their experience within the California
27 911 system. Board members should have at least two years of
28 experience as a Public Safety Answering Point (PSAP) manager
29 or county coordinator, except where a specific person is designated
30 as a member.

31 (d) Members of the advisory board shall serve at the pleasure
32 of the Governor, but may not serve more than two consecutive
33 two-year terms, except as follows:

34 (1) The presiding Chief of the California 911 Emergency
35 Communications Office shall serve for the duration of his or her
36 tenure.

37 (2) Four of the members shall serve an initial term of three years.

38 (e) Advisory board members shall not receive compensation
39 for their service on the board, but may be reimbursed for travel
40 and per diem for time spent in attending meetings of the board.

1 (f) The advisory board shall meet quarterly in public sessions
2 in accordance with the Bagley-Keene Open Meeting Act (Article
3 9 (commencing with Section 11120) of Chapter 2 of Part 1 of
4 Division 3 of Title 2). The office shall provide administrative
5 support to the State 911 Advisory Board. The State 911 Advisory
6 Board, at its first meeting, shall adopt bylaws and operating
7 procedures consistent with this article and establish committees
8 as necessary.

9 (g) Notwithstanding any other provision of law, any member
10 of the advisory board may designate a person to act as that member
11 in his or her place and stead for all purposes, as though the member
12 were personally present.

13 ~~SEC. 97.~~

14 *SEC. 103.* Section 53115.2 of the Government Code is amended
15 to read:

16 53115.2. (a) The State 911 Advisory Board shall advise the
17 office on all of the following subjects:

18 (1) Policies, practices, and procedures for the California 911
19 Emergency Communications Office.

20 (2) Technical and operational standards for the California 911
21 system consistent with the National Emergency Number
22 Association (NENA) standards.

23 (3) Training standards for county coordinators and Public Safety
24 Answering Point (PSAP) managers.

25 (4) Budget, funding, and reimbursement decisions related to
26 the State Emergency Number Account.

27 (5) Proposed projects and studies conducted or funded by the
28 State Emergency Number Account.

29 (6) Expediting the rollout of Enhanced 911 Phase II technology.

30 (b) Upon request of a local public agency, the board shall
31 conduct a hearing on any conflict between a local public agency
32 and the office regarding a final plan that has not been approved
33 by the office pursuant to Section 53114. The board shall meet
34 within 30 days following the request, and shall make a
35 recommendation to resolve the conflict to the office within 90 days
36 following the initial hearing by the board pursuant to the request.

37 ~~SEC. 98.~~

38 *SEC. 104.* Section 53115.3 of the Government Code is amended
39 to read:

1 53115.3. When proposed implementation of the 911 system
2 by a single public agency within its jurisdiction may adversely
3 affect the implementation of the system by a neighboring public
4 agency or agencies, such neighboring public agency may request
5 that the office evaluate the impact of implementation by the
6 proposing public agency and evaluate and weigh that impact in its
7 decision to approve or disapprove the proposing public agency's
8 final plan pursuant to Section 53115. In order to effectuate this
9 process, each city shall file a notice of filing of its final plan with
10 each adjacent city and with the county in which the proposing
11 public agency is located at the same time such final plan is filed
12 with the office and each county shall file a notice of filing of its
13 final plan with each city within the county and each adjacent county
14 at the time the final plan is filed with the office. Any public agency
15 wishing to request review pursuant to this section shall file its
16 request with the office within 30 days of filing of the final plan
17 for which review is sought.

18 ~~SEC. 99.~~

19 *SEC. 105.* Section 53116 of the Government Code is amended
20 to read:

21 53116. The Attorney General may, on behalf of the office or
22 on his or her own initiative, commence judicial proceedings to
23 enforce compliance by any public agency or public utility providing
24 telephone service with the provisions of this article.

25 ~~SEC. 100.~~

26 *SEC. 106.* Section 53119 of the Government Code is amended
27 to read:

28 53119. Any telephone corporation serving rural telephone areas
29 that cannot currently provide enhanced "911" emergency telephone
30 service capable of selective routing, automatic number
31 identification, or automatic location identification shall present to
32 the office a comprehensive plan detailing a schedule by which
33 those facilities will be converted to be compatible with the
34 enhanced emergency telephone system.

35 ~~SEC. 101.~~

36 *SEC. 107.* Section 53120 of the Government Code is amended
37 to read:

38 53120. The office shall not delay implementation of the
39 enhanced "911" emergency telephone system in those portions of
40 cities or counties, or both, served by a local telephone corporation

1 that has equipment compatible with the enhanced “911” emergency
2 telephone system.

3 ~~SEC. 102.~~

4 *SEC. 108.* Section 53126.5 of the Government Code is amended
5 to read:

6 53126.5. For purposes of this article, the following definitions
7 apply:

8 (a) “Local public agency” means a city, county, city and county,
9 and joint powers authority that provides a public safety answering
10 point (PSAP).

11 (b) “Nonemergency telephone system” means a system
12 structured to provide access to only public safety agencies such
13 as police and fire, or a system structured to provide access to public
14 safety agencies and to all other services provided by a local public
15 agency such as street maintenance and animal control.

16 (c) “Public Safety Communications Office” means the Public
17 Safety Communications Office within the Department of
18 Technology.

19 ~~SEC. 103.~~

20 *SEC. 109.* Section 53661 of the Government Code is amended
21 to read:

22 53661. (a) The Commissioner of Business Oversight shall act
23 as Administrator of Local Agency Security and shall be responsible
24 for the administration of Sections 53638, 53651, 53651.2, 53651.4,
25 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659,
26 53660, 53661, 53663, 53664, 53665, 53666, and 53667.

27 (b) The administrator shall have the powers necessary or
28 convenient to administer and enforce the sections specified in
29 subdivision (a).

30 (c) (1) The administrator shall issue regulations consistent with
31 law as the administrator may deem necessary or advisable in
32 executing the powers, duties, and responsibilities assigned by this
33 article. The regulations may include regulations prescribing
34 standards for the valuation, marketability, and liquidity of the
35 eligible securities of the class described in subdivision (m) of
36 Section 53651, regulations prescribing procedures and
37 documentation for adding, withdrawing, substituting, and holding
38 pooled securities, and regulations prescribing the form, content,
39 and execution of any application, report, or other document called

1 for in any of the sections specified in subdivision (a) or in any
2 regulation or order issued under any of those sections.

3 (2) The administrator, for good cause, may waive any provision
4 of any regulation adopted pursuant to paragraph (1) or any order
5 issued under this article, where the provision is not necessary in
6 the public interest.

7 (d) The administrator may enter into any contracts or agreements
8 as may be necessary, including joint underwriting agreements, to
9 sell or liquidate eligible securities securing local agency deposits
10 in the event of the failure of the depository or if the depository
11 fails to pay all or part of the deposits of a local agency.

12 (e) The administrator shall require from every depository a
13 report certified by the agent of depository listing all securities, and
14 the market value thereof, which are securing local agency deposits
15 together with the total deposits then secured by the pool, to
16 determine whether there is compliance with Section 53652. These
17 reports may be required whenever deemed necessary by the
18 administrator, but shall be required at least four times each year
19 at the times designated by the Comptroller of the Currency for
20 reports from national banking associations. These reports shall be
21 filed in the office of the administrator by the depository within 20
22 business days of the date the administrator calls for the report.

23 (f) The administrator may have access to reports of examination
24 made by the Comptroller of the Currency insofar as the reports
25 relate to national banking association trust department activities
26 which are subject to this article.

27 (g) (1) The administrator shall require the immediate
28 substitution of an eligible security, where the substitution is
29 necessary for compliance with Section 53652, if (i) the
30 administrator determines that a security listed in Section 53651 is
31 not qualified to secure public deposits, or (ii) a treasurer, who has
32 deposits secured by the securities pool, provides written notice to
33 the administrator and the administrator confirms that a security in
34 the pool is not qualified to secure public deposits.

35 (2) The failure of a depository to substitute securities, where
36 the administrator has required the substitution, shall be reported
37 by the administrator promptly to those treasurers having money
38 on deposit in that depository and, in addition, shall be reported as
39 follows:

1 (A) When that depository is a national bank, to the Comptroller
2 of the Currency of the United States.

3 (B) When that depository is a state bank, to the Commissioner
4 of Business Oversight.

5 (C) When that depository is a federal association, to the Office
6 of the Comptroller of the Currency.

7 (D) When that depository is a savings association, to the
8 Commissioner of Business Oversight.

9 (E) When that depository is a federal credit union, to the
10 National Credit Union Administration.

11 (F) When that depository is a state credit union or a federally
12 insured industrial loan company, to the Commissioner of Business
13 Oversight.

14 (h) The administrator may require from each treasurer a
15 registration report and at appropriate times a report stating the
16 amount and location of each deposit together with other
17 information deemed necessary by the administrator for effective
18 operation of this article. The facts recited in any report from a
19 treasurer to the administrator are conclusively presumed to be true
20 for the single purpose of the administrator fulfilling responsibilities
21 assigned to him or her by this article and for no other purpose.

22 (i) (1) If, after notice and opportunity for hearing, the
23 administrator finds that any depository or agent of depository has
24 violated or is violating, or that there is reasonable cause to believe
25 that any depository or agent of depository is about to violate, any
26 of the sections specified in subdivision (a) or any regulation or
27 order issued under any of those sections, the administrator may
28 order the depository or agent of depository to cease and desist from
29 the violation or may by order suspend or revoke the authorization
30 of the agent of depository. The order may require the depository
31 or agent of depository to take affirmative action to correct any
32 condition resulting from the violation.

33 (2) (A) If the administrator makes any of the findings set forth
34 in paragraph (1) with respect to any depository or agent of
35 depository and, in addition, finds that the violation or the
36 continuation of the violation is likely to seriously prejudice the
37 interests of treasurers, the administrator may order the depository
38 or agent of depository to cease and desist from the violation or
39 may suspend or revoke the authorization of the agent of depository.
40 The order may require the depository or agent of depository to

1 take affirmative action to correct any condition resulting from the
2 violation.

3 (B) Within five business days after an order is issued under
4 subparagraph (A), the depository or agent of depository may file
5 with the administrator an application for a hearing on the order.
6 The administrator shall schedule a hearing at least 30 days, but
7 not more than 40 days, after receipt of an application for a hearing
8 or within a shorter or longer period of time agreed to by a
9 depository or an agent of depository. If the administrator fails to
10 schedule the hearing within the specified or agreed to time period,
11 the order shall be deemed rescinded. Within 30 days after the
12 hearing, the administrator shall affirm, modify, or rescind the order;
13 otherwise, the order shall be deemed rescinded. The right of a
14 depository or agent of depository to which an order is issued under
15 subparagraph (A) to petition for judicial review of the order shall
16 not be affected by the failure of the depository or agent of
17 depository to apply to the administrator for a hearing on the order
18 pursuant to this subparagraph.

19 (3) Whenever the administrator issues a cease and desist order
20 under paragraph (1) or (2), the administrator may in the order
21 restrict the right of the depository to withdraw securities from a
22 security pool; and, in that event, both the depository to which the
23 order is directed and the agent of depository which holds the
24 security pool shall comply with the restriction.

25 (4) In case the administrator issues an order under paragraph
26 (1) or (2) suspending or revoking the authorization of an agent of
27 depository, the administrator may order the agent of depository at
28 its own expense to transfer all pooled securities held by it to such
29 agent of depository as the administrator may designate in the order.
30 The agent of depository designated in the order shall accept and
31 hold the pooled securities in accordance with this article and
32 regulations and orders issued under this article.

33 (j) In the discretion of the administrator, whenever it appears
34 to the administrator that any person has violated or is violating, or
35 that there is reasonable cause to believe that any person is about
36 to violate, any of the sections specified in subdivision (a) or any
37 regulation or order issued thereunder, the administrator may bring
38 an action in the name of the people of the State of California in
39 the superior court to enjoin the violation or to enforce compliance
40 with those sections or any regulation or order issued thereunder.

1 Upon a proper showing a permanent or preliminary injunction,
2 restraining order, or writ of mandate shall be granted, and the court
3 may not require the administrator to post a bond.

4 (k) In addition to other remedies, the administrator shall have
5 the power and authority to impose the following sanctions for
6 noncompliance with the sections specified in subdivision (a) after
7 a hearing if requested by the party deemed in noncompliance. Any
8 fine assessed pursuant to this subdivision shall be paid within 30
9 days after receipt of the assessment.

10 (1) Assess against and collect from a depository a fine not to
11 exceed two hundred fifty dollars (\$250) for each day the depository
12 fails to maintain with the agent of depository securities as required
13 by Section 53652.

14 (2) Assess against and collect from a depository a fine not to
15 exceed one hundred dollars (\$100) for each day beyond the time
16 period specified in subdivision (b) of Section 53663 the depository
17 negligently or willfully fails to file in the office of the administrator
18 a written report required by that section.

19 (3) Assess against and collect from a depository a fine not to
20 exceed one hundred dollars (\$100) for each day beyond the time
21 period specified in subdivision (e) that a depository negligently or
22 willfully fails to file in the office of the administrator a written
23 report required by that subdivision.

24 (4) Assess and collect from an agent of depository a fine not to
25 exceed one hundred dollars (\$100) for each day the agent of
26 depository fails to comply with any of the applicable sections
27 specified in subdivision (a) or any applicable regulation or order
28 issued thereunder.

29 (l) (1) In the event that a depository or agent of depository fails
30 to pay a fine assessed by the administrator pursuant to subdivision
31 (k) within 30 days of receipt of the assessment, the administrator
32 may assess and collect an additional penalty of 5 percent of the
33 fine for each month or part thereof that the payment is delinquent.

34 (2) If a depository fails to pay the fines or penalties assessed by
35 the administrator, the administrator may notify local agency
36 treasurers with deposits in the depository.

37 (3) If an agent of depository fails to pay the fines or penalties
38 assessed by the administrator, the administrator may notify local
39 agency treasurers who have authorized the agent of depository as
40 provided in Sections 53649 and 53656, and may by order revoke

1 the authorization of the agent of depository as provided in
2 subdivision (i).

3 (m) The amendments to this section enacted by the Legislature
4 during the 1999–2000 Regular Session shall become operative on
5 January 1, 2001.

6 *SEC. 110. Section 63021.5 of the Government Code is amended*
7 *to read:*

8 63021.5. (a) The bank shall be governed and its corporate
9 power exercised by a board of directors that shall consist of the
10 following persons:

11 (1) The Director of Finance or his or her designee.

12 (2) The Treasurer or his or her designee.

13 (3) ~~The Secretary of Business, Transportation and Housing~~
14 *Director of the Governor's Office of Business and Economic*
15 *Development* or his or her designee, who shall serve as chair of
16 the board.

17 (4) An appointee of the Governor.

18 (5) ~~The Secretary of State and Consumer Services Agency~~
19 *Transportation* or his or her designee.

20 (b) Any designated director shall serve at the pleasure of the
21 designating power.

22 (c) Three of the members shall constitute a quorum and the
23 affirmative vote of three board members shall be necessary for
24 any action to be taken by the board.

25 (d) A member of the board shall not participate in any bank
26 action or attempt to influence any decision or recommendation by
27 any employee of, or consultant to, the bank that involves a sponsor
28 of which he or she is a representative or in which the member or
29 a member of his or her immediate family has a personal financial
30 interest within the meaning of Section 87100. For purposes of this
31 section, "immediate family" means the spouse, children, and
32 parents of the member.

33 (e) Except as provided in this subdivision, the members of the
34 board shall serve without compensation, but shall be reimbursed
35 for actual and necessary expenses incurred in the performance of
36 their duties to the extent that reimbursement for these expenses is
37 not otherwise provided or payable by another public agency, and
38 shall receive one hundred dollars (\$100) for each full day of
39 attending meetings of the authority.

1 ~~SEC. 104.~~

2 *SEC. 111.* Section 65040.12 of the Government Code is
3 amended to read:

4 65040.12. (a) The office shall be the coordinating agency in
5 state government for environmental justice programs.

6 (b) The director shall do all of the following:

7 (1) Consult with the Secretaries of California Environmental
8 Protection, ~~National~~ *Natural* Resources, Transportation, and
9 Business, Consumer Services, and Housing, the Working Group
10 on Environmental Justice established pursuant to Section 71113
11 of the Public Resources Code, any other appropriate state agencies,
12 and all other interested members of the public and private sectors
13 in this state.

14 (2) Coordinate the office's efforts and share information
15 regarding environmental justice programs with the Council on
16 Environmental Quality, the United States Environmental Protection
17 Agency, the General Accounting Office, the Office of Management
18 and Budget, and other federal agencies.

19 (3) Review and evaluate any information from federal agencies
20 that is obtained as a result of their respective regulatory activities
21 under federal Executive Order 12898, and from the Working Group
22 on Environmental Justice established pursuant to Section 71113
23 of the Public Resources Code.

24 (c) When it adopts its next edition of the general plan guidelines
25 pursuant to Section 65040.2, but in no case later than July 1, 2003,
26 the office shall include guidelines for addressing environmental
27 justice matters in city and county general plans. The office shall
28 hold at least one public hearing prior to the release of any draft
29 guidelines, and at least one public hearing after the release of the
30 draft guidelines. The hearings may be held at the regular meetings
31 of the Planning Advisory and Assistance Council.

32 (d) The guidelines developed by the office pursuant to
33 subdivision (c) shall recommend provisions for general plans to
34 do all of the following:

35 (1) Propose methods for planning for the equitable distribution
36 of new public facilities and services that increase and enhance
37 community quality of life throughout the community, given the
38 fiscal and legal constraints that restrict the siting of these facilities.

39 (2) Propose methods for providing for the location, if any, of
40 industrial facilities and uses that, even with the best available

1 technology, will contain or produce material that, because of its
2 quantity, concentration, or physical or chemical characteristics,
3 poses a significant hazard to human health and safety, in a manner
4 that seeks to avoid over-concentrating these uses in proximity to
5 schools or residential dwellings.

6 (3) Propose methods for providing for the location of new
7 schools and residential dwellings in a manner that seeks to avoid
8 locating these uses in proximity to industrial facilities and uses
9 that will contain or produce material that because of its quantity,
10 concentration, or physical or chemical characteristics, poses a
11 significant hazard to human health and safety.

12 (4) Propose methods for promoting more livable communities
13 by expanding opportunities for transit-oriented development so
14 that residents minimize traffic and pollution impacts from traveling
15 for purposes of work, shopping, schools, and recreation.

16 (e) For the purposes of this section, “environmental justice”
17 means the fair treatment of people of all races, cultures, and
18 incomes with respect to the development, adoption,
19 implementation, and enforcement of environmental laws,
20 regulations, and policies.

21 *SEC. 112. Section 91550 of the Government Code is amended*
22 *to read:*

23 91550. There is in state government the California Industrial
24 Development Financing Advisory Commission, consisting of five
25 members, as follows:

26 (a) The Treasurer, who shall serve as chairperson.

27 (b) The Controller.

28 (c) The Director of Finance.

29 ~~(d) The Secretary of Business, Transportation and Housing.~~
30 *Director of the Governor’s Office of Business and Economic*
31 *Development.*

32 (e) The Commissioner of ~~Corporations.~~ *Business Oversight.*

33 Members of the commission may each designate a deputy or
34 employee in his or her agency to act for him or her at all meetings
35 of the commission. The first meeting shall be convened by the
36 Treasurer.

37 *SEC. 113. Section 99055 of the Government Code is amended*
38 *to read:*

39 99055. (a) Solely for the purpose of authorizing the issuance
40 and sale pursuant to the State General Obligation Bond Law of

1 the bonds authorized by this title and the making of those
2 determinations and the taking of other actions as are authorized
3 by this title, the Economic Recovery Financing Committee is
4 hereby created. For purposes of this title, the Economic Recovery
5 Financing Committee is “the committee” as that term is used in
6 the State General Obligation Bond Law (Chapter 4 (commencing
7 with Section 16720) of Part 3 of Division 4 of Title 2).

8 (b) The committee consists of all of the following members:

9 (1) The Governor or his or her designee.

10 (2) The Director of Finance.

11 (3) The Treasurer.

12 (4) The Controller.

13 ~~(5) The Secretary of Business, Transportation and Housing.~~
14 *Director of the Governor’s Office of Business and Economic*
15 *Development.*

16 (6) The Director of General Services.

17 (7) The Director of Transportation.

18 (c) Notwithstanding any other provision of law, any member
19 may designate a deputy to act as that member in his or her place
20 and stead for all purposes, as though the member were personally
21 present.

22 (d) The Legislature finds and declares that each member of the
23 committee has previously acted as a member of a similar finance
24 committee.

25 (e) A majority of the members of the committee shall constitute
26 a quorum of the committee and may act for the committee.

27 (f) The Director of Finance shall serve as chairperson of the
28 committee.

29 ~~SEC. 105.~~

30 *SEC. 114.* Section 71.4 of the Harbors and Navigation Code
31 is amended to read:

32 71.4. (a) (1) The division, subject to the approval of the
33 Legislature in accordance with Section 85.2, may make loans to
34 qualified cities, counties, or districts having power to acquire,
35 construct, and operate small craft harbors, for the design, planning,
36 acquisition, construction, improvement, maintenance, or operation
37 of small craft harbors and facilities in connection with the harbors,
38 and connecting waterways, if the division finds that the project is
39 feasible.

1 (2) The minimum annual rate of interest charged by the division
2 for a loan shall be set annually by the division and shall be based
3 on the Pooled Money Investment Account interest rate.

4 (b) The division shall establish, by rules and regulations, policies
5 and standards to be followed in making loans pursuant to this
6 section so as to further the proper development and maintenance
7 of a statewide system of small craft harbors and connecting
8 waterways. To the greatest extent possible, the division shall adhere
9 to customary commercial practices to ensure that loans made
10 pursuant to this section are adequately secured and that the loans
11 are repaid consistent with the terms of the loan agreement. Any
12 rules and regulations shall include policies and standards for
13 restrooms, vessel pumpout facilities, oil recycling facilities, and
14 receptacles for the purpose of separating, reusing, or recycling all
15 solid waste materials.

16 (c) The division shall develop weighing and ranking criteria to
17 qualify and prioritize the public loans.

18 (d) A loan under this section shall be repaid as provided in
19 Section 70.

20 (e) Rates to be charged for the use of the boating facilities shall
21 be established by the city, county, or district, subject to the approval
22 of the division, in every loan contract. The division shall concern
23 itself with the rates charged only as prescribed in Section 71.8.
24 The rates set shall be based on a monthly berthing charge, and the
25 division shall monitor these rates to ensure that the berthing charges
26 are sufficient to ensure timely and complete repayment of the loan.

27 (f) The division shall submit any project for which it
28 recommends any loan be made to the Governor for inclusion in
29 the Budget Bill.

30 (g) The division may restate an existing loan under this article,
31 upon written request by the borrower.

32 ~~SEC. 106.~~

33 *SEC. 115.* Section 71.7 of the Harbors and Navigation Code
34 is amended to read:

35 71.7. Notwithstanding any other provision of this chapter,
36 Section 82, or any contract or agreement to the contrary, loan
37 payments on the loan on behalf of Spud Point Marina in the County
38 of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516
39 of Section 2.00 of the Budget Act of 1982, and administered by
40 the division, may be renegotiated by the division and the County

1 of Sonoma, to solve the fiscal problems involving the marina
2 existing on the effective date of this section as enacted during the
3 1994 portion of the 1993–94 Regular Session.

4 ~~SEC. 107.~~

5 *SEC. 116.* Section 72.6 of the Harbors and Navigation Code
6 is amended to read:

7 72.6. Transfers pursuant to Section 70, loans pursuant to
8 Section 71.4, and grants pursuant to Section 72.5 shall be made
9 by the division with the advice of the commission.

10 ~~SEC. 108.~~

11 *SEC. 117.* Section 76.5 of the Harbors and Navigation Code
12 is amended to read:

13 76.5. In processing applications under this article, the division
14 shall give priority to applications from qualified private marina
15 owners who have not received previous loans from the department.
16 If the department finds a proposed loan project is feasible, the loan
17 request shall be submitted to the commission for its advice.

18 ~~SEC. 109.~~

19 *SEC. 118.* Section 76.6 of the Harbors and Navigation Code
20 is amended to read:

21 76.6. Loans made under this article shall include, but are not
22 limited to, the following terms and conditions:

23 (a) The minimum annual rate of interest charged by the division
24 for a loan shall be set annually by the division and shall be a rate
25 equal to 1 percent per annum plus the prime or base rate of interest.

26 (b) The division shall require collateral in a minimum amount
27 of 110 percent of the loan.

28 (c) The repayment period of a loan shall not exceed 20 years,
29 or be longer than the length of the borrower's leasehold estate,
30 including renewal options, if the loan is based upon a leasehold
31 estate of the borrower.

32 (d) All loans shall amortize the principal over the term of the
33 loan. However, a loan shall become due and payable in full if the
34 borrower sells or otherwise transfers the recreational marina
35 developed with divisional funds, unless the transfer is, by reason
36 of the death of the borrower, to the borrower's heirs.

37 (e) The division's loans shall not be subordinated to any future
38 loans obtained by a private marina owner, except in those cases
39 involving loans acquired for refinancing previous senior loans.

1 (f) The division may allow assumption of loans from the original
2 borrower by future parties, subject to completion of the application
3 process and upon approval by the division.

4 (g) The division may, upon written request by the borrower,
5 restate an existing loan.

6 ~~SEC. 110.~~

7 *SEC. 119.* Section 82 of the Harbors and Navigation Code, as
8 added by Section 2 of Chapter 136 of the Statutes of 2012, is
9 amended to read:

10 82. The division, consistent with Section 82.3, and in
11 furtherance of the public interest and in accordance therewith, shall
12 have only the following duties with respect to the commission:

13 (a) To submit any proposed changes in regulations pertaining
14 to boating functions and responsibilities of the division to the
15 commission for its advice and comment prior to enactment of
16 changes.

17 (b) To submit proposals for transfers pursuant to Section 70,
18 loans pursuant to Section 71.4 or 76.3, and grants pursuant to
19 Section 72.5 to the commission for its advice and comment.

20 (c) To submit any proposed project for which it is making a
21 determination of eligibility for funding from the Harbors and
22 Watercraft Revolving Fund to the commission if that project could
23 have a potentially significant impact on either public health or
24 safety, public access, or the environment for the commission's
25 advice and comment prior to making that determination.

26 (d) To annually submit a report on its budget and expenditures
27 to the commission for its advice and comment.

28 (e) To cause studies and surveys to be made of the need for
29 small craft harbors and connecting waterways throughout the state
30 and the most suitable sites therefore, and submit those studies and
31 surveys to the commission for advice and comment.

32 ~~SEC. 111.~~

33 *SEC. 120.* Section 82.3 of the Harbors and Navigation Code
34 is amended to read:

35 82.3. The commission shall have the following particular duties
36 and responsibilities:

37 (a) To be fully informed regarding all governmental activities
38 affecting programs administered by the division.

39 (b) To meet at least four times per year at various locations
40 throughout the state to receive comments on the implementation

1 of the programs administered by the division and establish an
2 annual calendar of proposed meetings at the beginning of each
3 calendar year. The meetings shall include a public meeting, before
4 the beginning of each funding cycle of a loan and grant program
5 funded from the Harbors and Watercraft Revolving Fund, to collect
6 public input concerning the program, recommendations for program
7 improvements, and specific project needs for the system.

8 (c) To hold a public hearing to receive public comment regarding
9 any proposed project subject to subdivision (c) of Section 82 at a
10 location in close geographic proximity to the proposed project,
11 unless a hearing consistent with federal law or regulation has
12 already been held regarding the project.

13 (d) To consider, upon the request of any owner or tenant whose
14 property is in the vicinity of any proposed project subject to
15 subdivision (c) of Section 82, any alleged adverse impacts
16 occurring on that person’s property from activities undertaken
17 pursuant to this code, and recommend to the division suitable
18 measures for the prevention of any adverse impacts determined
19 by the commission to be occurring, and suitable measures for the
20 restoration of adversely impacted property.

21 (e) To review and comment annually to the division on the
22 proposed budget of expenditures from the revolving fund.

23 (f) To review all proposals for local and regional waterways,
24 piers, harbors, docks, or other recreational areas that have applied
25 for grant or loan funds from the division prior to a final
26 determination of eligibility by the division.

27 (g) (1) With support and assistance from the division, to prepare
28 and submit a program report to the Governor, the Assembly
29 Committee on Water, Parks and Wildlife, the Senate Committee
30 on Natural Resources and Water, the Senate Committee on
31 Appropriations, and the Assembly Committee on Appropriations
32 on or before January 1, 2013, and every three years thereafter. The
33 report shall be adopted by the commission after discussing the
34 contents during two or more public meetings. The report shall
35 address the status of any regulations adopted or being considered
36 by the division and any loan or grant that has been or is being
37 considered for a determination of eligibility by the division pending
38 the previous report.

1 (2) A report required to be submitted pursuant to paragraph (1)
2 shall be submitted in compliance with Section 9795 of the
3 Government Code.

4 ~~SEC. 112.~~

5 *SEC. 121.* Section 40448.6 of the Health and Safety Code is
6 amended to read:

7 40448.6. The Legislature hereby finds and declares all of the
8 following:

9 (a) It is necessary to increase the availability of financial
10 assistance to small businesses that are subject to the rules and
11 regulations of the south coast district, in order to minimize
12 economic dislocation and adverse socioeconomic impacts.

13 (b) It is in the public interest that a portion of the funds collected
14 by the south coast district from violators of air pollution regulations
15 be allocated for the purpose of guaranteeing or otherwise reducing
16 the financial risks of providing financial assistance to small
17 businesses which face increased borrowing requirements in order
18 to comply with air pollution control requirements.

19 (c) Public agencies and private lenders have a variety of methods
20 available for providing financing assistance to small businesses
21 and other employers, including taxable bonds, composite or pooled
22 financing instruments, loan guarantees, and credit insurance, which
23 could be utilized in combination with the penalties collected by
24 the south coast district to expand the availability and reduce the
25 cost of financing assistance.

26 (d) The California Pollution Control Financing Authority has
27 funds set aside from previous bond issues, which could be used to
28 guarantee the issuance of bonds or other financing for small
29 businesses for the purchase and installation of pollution control
30 equipment.

31 (e) The Governor's Office of Business and Economic
32 Development, through the small business financial development
33 corporations established pursuant to Chapter 1 (commencing with
34 Section 14000) of Part 5 of Division 3 of Title 1 of the
35 Corporations Code, has the ability to provide state loan guarantees
36 and technical assistance to small businesses needing financial
37 assistance.

38 (f) The Job Training Partnership Division of the Employment
39 Development Department makes funds available for job training

1 programs, including funds for dislocated workers, through the
2 federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

3 (g) It is the policy of the state that the Job Training Partnership
4 Division of the Employment Development Department, in
5 cooperation with the districts and the state board, are encouraged
6 to provide job training programs for workers who, as determined
7 by the department or the local private industry council, have been
8 laid off or dislocated as a result of actions resulting from air quality
9 regulations.

10 (h) It is the policy of the state that the California Pollution
11 Control Financing Authority and other state agencies implementing
12 small business assistance programs, in cooperation with the districts
13 and the state board, are encouraged to provide technical and
14 financial assistance to small businesses to facilitate compliance
15 with air quality regulations.

16 ~~SEC. 113.~~

17 *SEC. 122.* Section 44272 of the Health and Safety Code is
18 amended to read:

19 44272. (a) The Alternative and Renewable Fuel and Vehicle
20 Technology Program is hereby created. The program shall be
21 administered by the commission. The commission shall implement
22 the program by regulation pursuant to the requirements of Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2 of the Government Code. The program shall provide, upon
25 appropriation by the Legislature, competitive grants, revolving
26 loans, loan guarantees, loans, or other appropriate funding
27 measures, to public agencies, vehicle and technology entities,
28 businesses and projects, public-private partnerships, workforce
29 training partnerships and collaboratives, fleet owners, consumers,
30 recreational boaters, and academic institutions to develop and
31 deploy innovative technologies that transform California's fuel
32 and vehicle types to help attain the state's climate change policies.
33 The emphasis of this program shall be to develop and deploy
34 technology and alternative and renewable fuels in the marketplace,
35 without adopting any one preferred fuel or technology.

36 (b) A project that receives more than seventy-five thousand
37 dollars (\$75,000) in funds from the commission shall be approved
38 at a noticed public meeting of the commission and shall be
39 consistent with the priorities established by the investment plan
40 adopted pursuant to Section 44272.5. Under this article, the

1 commission may delegate to the commission’s executive director,
2 or his or her designee, the authority to approve either of the
3 following:

4 (1) A contract, grant, loan, or other agreement or award that
5 receives seventy-five thousand dollars (\$75,000) or less in funds
6 from the commission.

7 (2) Amendments to a contract, grant, loan, or other agreement
8 or award as long as the amendments do not increase the amount
9 of the award, change the scope of the project, or modify the purpose
10 of the agreement.

11 (c) The commission shall provide preferences to those projects
12 that maximize the goals of the Alternative and Renewable Fuel
13 and Vehicle Technology Program, based on the following criteria,
14 as applicable:

15 (1) The project’s ability to provide a measurable transition from
16 the nearly exclusive use of petroleum fuels to a diverse portfolio
17 of viable alternative fuels that meet petroleum reduction and
18 alternative fuel use goals.

19 (2) The project’s consistency with existing and future state
20 climate change policy and low-carbon fuel standards.

21 (3) The project’s ability to reduce criteria air pollutants and air
22 toxics and reduce or avoid multimedia environmental impacts.

23 (4) The project’s ability to decrease, on a life cycle basis, the
24 discharge of water pollutants or any other substances known to
25 damage human health or the environment, in comparison to the
26 production and use of California Phase 2 Reformulated Gasoline
27 or diesel fuel produced and sold pursuant to California diesel fuel
28 regulations set forth in Article 2 (commencing with Section 2280)
29 of Chapter 5 of Division 3 of Title 13 of the California Code of
30 Regulations.

31 (5) The project does not adversely impact the sustainability of
32 the state’s natural resources, especially state and federal lands.

33 (6) The project provides nonstate matching funds. Costs incurred
34 from the date a proposed award is noticed may be counted as
35 nonstate matching funds. The commission may adopt further
36 requirements for the purposes of this paragraph. The commission
37 is not liable for costs incurred pursuant to this paragraph if the
38 commission does not give final approval for the project or the
39 proposed recipient does not meet requirements adopted by the
40 commission pursuant to this paragraph.

1 (7) The project provides economic benefits for California by
2 promoting California-based technology firms, jobs, and businesses.

3 (8) The project uses existing or proposed fueling infrastructure
4 to maximize the outcome of the project.

5 (9) The project's ability to reduce on a life cycle assessment
6 greenhouse gas emissions by at least 10 percent, and higher
7 percentages in the future, from current reformulated gasoline and
8 diesel fuel standards established by the state board.

9 (10) The project's use of alternative fuel blends of at least 20
10 percent, and higher blend ratios in the future, with a preference
11 for projects with higher blends.

12 (11) The project drives new technology advancement for
13 vehicles, vessels, engines, and other equipment, and promotes the
14 deployment of that technology in the marketplace.

15 (d) Only the following shall be eligible for funding:

16 (1) Alternative and renewable fuel projects to develop and
17 improve alternative and renewable low-carbon fuels, including
18 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,
19 hydrogen, and biomethane, among others, and their feedstocks
20 that have high potential for long-term or short-term
21 commercialization, including projects that lead to sustainable
22 feedstocks.

23 (2) Demonstration and deployment projects that optimize
24 alternative and renewable fuels for existing and developing engine
25 technologies.

26 (3) Projects to produce alternative and renewable low-carbon
27 fuels in California.

28 (4) Projects to decrease the overall impact of an alternative and
29 renewable fuel's life cycle carbon footprint and increase
30 sustainability.

31 (5) Alternative and renewable fuel infrastructure, fueling
32 stations, and equipment. The preference in paragraph (10) of
33 subdivision (c) shall not apply to renewable diesel or biodiesel
34 infrastructure, fueling stations, and equipment used solely for
35 renewable diesel or biodiesel fuel.

36 (6) Projects to develop and improve light-, medium-, and
37 heavy-duty vehicle technologies that provide for better fuel
38 efficiency and lower greenhouse gas emissions, alternative fuel
39 usage and storage, or emission reductions, including propulsion
40 systems, advanced internal combustion engines with a 40 percent

1 or better efficiency level over the current market standard,
2 light-weight materials, energy storage, control systems and system
3 integration, physical measurement and metering systems and
4 software, development of design standards and testing and
5 certification protocols, battery recycling and reuse, engine and fuel
6 optimization electronic and electrified components, hybrid
7 technology, plug-in hybrid technology, battery electric vehicle
8 technology, fuel cell technology, and conversions of hybrid
9 technology to plug-in technology through the installation of safety
10 certified supplemental battery modules.

11 (7) Programs and projects that accelerate the commercialization
12 of vehicles and alternative and renewable fuels including buy-down
13 programs through near-market and market-path deployments,
14 advanced technology warranty or replacement insurance,
15 development of market niches, supply-chain development, and
16 research related to the pedestrian safety impacts of vehicle
17 technologies and alternative and renewable fuels.

18 (8) Programs and projects to retrofit medium- and heavy-duty
19 on-road and nonroad vehicle fleets with technologies that create
20 higher fuel efficiencies, including alternative and renewable fuel
21 vehicles and technologies, idle management technology, and
22 aerodynamic retrofits that decrease fuel consumption.

23 (9) Infrastructure projects that promote alternative and renewable
24 fuel infrastructure development connected with existing fleets,
25 public transit, and existing transportation corridors, including
26 physical measurement or metering equipment and truck stop
27 electrification.

28 (10) Workforce training programs related to alternative and
29 renewable fuel feedstock production and extraction, renewable
30 fuel production, distribution, transport, and storage,
31 high-performance and low-emission vehicle technology and high
32 tower electronics, automotive computer systems, mass transit fleet
33 conversion, servicing, and maintenance, and other sectors or
34 occupations related to the purposes of this chapter.

35 (11) Block grants or incentive programs administered by public
36 entities or not-for-profit technology entities for multiple projects,
37 education and program promotion within California, and
38 development of alternative and renewable fuel and vehicle
39 technology centers. The commission may adopt guidelines for

1 implementing the block grant or incentive program, which shall
2 be approved at a noticed public meeting of the commission.

3 (12) Life cycle and multimedia analyses, sustainability and
4 environmental impact evaluations, and market, financial, and
5 technology assessments performed by a state agency to determine
6 the impacts of increasing the use of low-carbon transportation fuels
7 and technologies, and to assist in the preparation of the investment
8 plan and program implementation.

9 (13) A program to provide funding for homeowners who
10 purchase a plug-in electric vehicle to offset costs associated with
11 modifying electrical sources to include a residential plug-in electric
12 vehicle charging station. In establishing this program, the
13 commission shall consider funding criteria to maximize the public
14 benefit of the program.

15 (e) The commission may make a single source or sole source
16 award pursuant to this section for applied research. The same
17 requirements set forth in Section 25620.5 of the Public Resources
18 Code shall apply to awards made on a single source basis or a sole
19 source basis. This subdivision does not authorize the commission
20 to make a single source or sole source award for a project or
21 activity other than for applied research.

22 (f) The commission may do all of the following:

23 (1) Contract with the Treasurer to expend funds through
24 programs implemented by the Treasurer, if the expenditure is
25 consistent with all of the requirements of this article and Article
26 1 (commencing with Section 44270).

27 (2) Contract with small business financial development
28 corporations established by the Governor's Office of Business and
29 Economic Development to expend funds through the Small
30 Business Loan Guarantee Program if the expenditure is consistent
31 with all of the requirements of this article and Article 1
32 (commencing with Section 44270).

33 (3) Advance funds, pursuant to an agreement with the
34 commission, to any of the following:

35 (A) A public entity.

36 (B) A recipient to enable it to make advance payments to a
37 public entity that is a subrecipient of the funds and under a binding
38 and enforceable subagreement with the recipient.

39 (C) An administrator of a block grant program.

1 ~~SEC. 114.~~

2 *SEC. 123.* Section 326.3 of the Penal Code is amended to read:

3 326.3. (a) The Legislature finds and declares all of the
4 following:

5 (1) Nonprofit organizations provide important and essential
6 educational, philanthropic, and social services to the people of the
7 State of California.

8 (2) One of the great strengths of California is a vibrant nonprofit
9 sector.

10 (3) Nonprofit and philanthropic organizations touch the lives
11 of every Californian through service and employment.

12 (4) Many of these services would not be available if nonprofit
13 organizations did not provide them.

14 (5) There is a need to provide methods of fundraising to
15 nonprofit organizations to enable them to provide these essential
16 services.

17 (6) Historically, many nonprofit organizations have used
18 charitable bingo as one of their key fundraising strategies to
19 promote the mission of the charity.

20 (7) Legislation is needed to provide greater revenues for
21 nonprofit organizations to enable them to fulfill their charitable
22 purposes, and especially to meet their increasing social service
23 obligations.

24 (8) Legislation is also needed to clarify that existing law requires
25 that all charitable bingo must be played using a tangible card and
26 that the only permissible electronic devices to be used by charitable
27 bingo players are card-minding devices.

28 (b) Neither the prohibition on gambling in this chapter nor in
29 Chapter 10 (commencing with Section 330) applies to any remote
30 caller bingo game that is played or conducted in a city, county, or
31 city and county pursuant to an ordinance enacted under Section
32 19 of Article IV of the California Constitution, if the ordinance
33 allows a remote caller bingo game to be played or conducted only
34 in accordance with this section, including the following
35 requirements:

36 (1) The game may be conducted only by the following
37 organizations:

38 (A) An organization that is exempted from the payment of the
39 taxes imposed under the Corporation Tax Law by Section 23701a,

1 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
2 23701w of the Revenue and Taxation Code.

3 (B) A mobilehome park association.

4 (C) A senior citizens organization.

5 (D) Charitable organizations affiliated with a school district.

6 (2) The organization conducting the game shall have been
7 incorporated or in existence for three years or more.

8 (3) The organization conducting the game shall be licensed
9 pursuant to subdivision (I) of Section 326.5.

10 (4) The receipts of the game shall be used only for charitable
11 purposes. The organization conducting the game shall determine
12 the disbursement of the net receipts of the game.

13 (5) The operation of bingo may not be the primary purpose for
14 which the organization is organized.

15 (c) (1) A city, county, or city and county may adopt an
16 ordinance in substantially the following form to authorize remote
17 caller bingo in accordance with the requirements of subdivision

18 (b):

19

20 Sec. .01. Legislative Authorization.

21 This chapter is adopted pursuant to Section 19 of Article IV of
22 the California Constitution, as implemented by Sections 326.3 and
23 326.4 of the Penal Code.

24 Sec. .02. Remote Caller Bingo Authorized.

25 Remote Caller Bingo may be lawfully played in the [City,
26 County, or City and County] pursuant to the provisions of Sections
27 326.3 and 326.4 of the Penal Code, and this chapter, and not
28 otherwise.

29 Sec. .03. Qualified Applicants: Applicants for Licensure.

30 (a) The following organizations are qualified to apply to the
31 License Official for a license to operate a bingo game if the receipts
32 of those games are used only for charitable purposes:

33 (1) An organization exempt from the payment of the taxes
34 imposed under the Corporation Tax Law by Section 23701a,
35 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
36 23701w of the Revenue and Taxation Code.

37 (2) A mobile home park association of a mobile home park that
38 is situated in the [City, County, or City and County].

39 (3) Senior citizen organizations.

40 (4) Charitable organizations affiliated with a school district.

1 (b) The application shall be in a form prescribed by the License
2 Official and shall be accompanied by a nonrefundable filing fee
3 in an amount determined by resolution of the [Governing Body of
4 the City, County, or City and County] from time to time. The
5 following documentation shall be attached to the application, as
6 applicable:

7 (1) A certificate issued by the Franchise Tax Board certifying
8 that the applicant is exempt from the payment of the taxes imposed
9 under the Corporation Tax Law pursuant to Section 23701a,
10 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
11 23701w of the Revenue and Taxation Code. In lieu of a certificate
12 issued by the Franchise Tax Board, the License Official may refer
13 to the Franchise Tax Board’s Internet Web site to verify that the
14 applicant is exempt from the payment of the taxes imposed under
15 the Corporation Tax Law.

16 (2) Other evidence as the License Official determines is
17 necessary to verify that the applicant is a duly organized mobile
18 home park association of a mobile home park situated in the [City,
19 County, or City and County].

20 Sec. .04. License Application: Verification.

21 The license shall not be issued until the License Official has
22 verified the facts stated in the application and determined that the
23 applicant is qualified.

24 Sec. .05. Annual Licenses.

25 A license issued pursuant to this chapter shall be valid until the
26 end of the calendar year, at which time the license shall expire. A
27 new license shall only be obtained upon filing a new application
28 and payment of the license fee. The fact that a license has been
29 issued to an applicant creates no vested right on the part of the
30 licensee to continue to offer bingo for play. The [Governing Body
31 of the City, County, or City and County] expressly reserves the
32 right to amend or repeal this chapter at any time by resolution. If
33 this chapter is repealed, all licenses issued pursuant to this chapter
34 shall cease to be effective for any purpose on the effective date of
35 the repealing resolution.

36 Sec. .06. Conditions of Licensure.

37 (a) Any license issued pursuant to this chapter shall be subject
38 to the conditions contained in Sections 326.3 and 326.4 of the
39 Penal Code, and each licensee shall comply with the requirements
40 of those provisions.

1 (b) Each license issued pursuant to this chapter shall be subject
2 to the following additional conditions:

3 (1) Bingo games shall not be conducted by any licensee on more
4 than two days during any week, except that a licensee may hold
5 one additional game, at its election, in each calendar quarter.

6 (2) The licensed organization is responsible for ensuring that
7 the conditions of this chapter and Sections 326.3 and 326.4 of the
8 Penal Code are complied with by the organization and its officers
9 and members. A violation of any one or more of those conditions
10 or provisions shall constitute cause for the revocation of the
11 organization's license. At the request of the organization, the
12 [Governing Body of the City, County, or City and County] shall
13 hold a public hearing before revoking any license issued pursuant
14 to this chapter.

15
16 (3) This section shall not require a city, county, or city and
17 county to use this model ordinance in order to authorize remote
18 caller bingo.

19 (c) It is a misdemeanor for any person to receive or pay a profit,
20 wage, or salary from any remote caller bingo game, provided that
21 administrative, managerial, technical, financial, and security
22 personnel employed by the organization conducting the bingo
23 game may be paid reasonable fees for services rendered from the
24 revenues of bingo games, as provided in subdivision (m), except
25 that fees paid under those agreements shall not be determined as
26 a percentage of receipts or other revenues from, or be dependant
27 on the outcome of, the game.

28 (d) A violation of subdivision (d) shall be punishable by a fine
29 not to exceed ten thousand dollars (\$10,000), which fine shall be
30 deposited in the general fund of the city, county, or city and county
31 that enacted the ordinance authorizing the remote caller bingo
32 game. A violation of any provision of this section, other than
33 subdivision (d), is a misdemeanor.

34 (e) The city, county, or city and county that enacted the
35 ordinance authorizing the remote caller bingo game, or the Attorney
36 General, may bring an action to enjoin a violation of this section.

37 (f) No minors shall be allowed to participate in any remote caller
38 bingo game.

39 (g) A remote caller bingo game shall not include any site that
40 is not located within this state.

- 1 (h) An organization authorized to conduct a remote caller bingo
2 game pursuant to subdivision (b) shall conduct the game only on
3 property that is owned or leased by the organization, or the use of
4 which is donated to the organization. This subdivision shall not
5 be construed to require that the property that is owned or leased
6 by, or the use of which is donated to, the organization be used or
7 leased exclusively by, or donated exclusively to, that organization.
- 8 (i) (1) All remote caller bingo games shall be open to the public,
9 not just to the members of the authorized organization.
- 10 (2) No more than 750 players may participate in a remote caller
11 bingo game in a single location.
- 12 (3) If the Governor of California or the President of the United
13 States declares a state of emergency in response to a natural disaster
14 or other public catastrophe occurring in California, an organization
15 authorized to conduct remote caller bingo games may, while that
16 declaration is in effect, conduct a remote caller bingo game
17 pursuant to this section with more than 750 participants in a single
18 venue if the net proceeds of the game, after deduction of prizes
19 and overhead expenses, are donated to or expended exclusively
20 for the relief of the victims of the disaster or catastrophe, and the
21 organization gives the California Gambling Control Commission
22 at least 10 days' written notice of the intent to conduct that game.
- 23 (4) An organization authorized to conduct remote caller bingo
24 games shall provide the department with at least 30 days' advance
25 written notice of its intent to conduct a remote caller bingo game.
26 That notice shall include all of the following:
- 27 (A) The legal name of the organization and the address of record
28 of the agent upon whom legal notice may be served.
- 29 (B) The locations of the caller and remote players, whether the
30 property is owned by the organization or donated, and if donated,
31 by whom.
- 32 (C) The name of the licensed caller and site manager.
- 33 (D) The names of administrative, managerial, technical,
34 financial, and security personnel employed.
- 35 (E) The name of the vendor and any person or entity maintaining
36 the equipment used to operate and transmit the game.
- 37 (F) The name of the person designated as having a fiduciary
38 responsibility for the game pursuant to paragraph (2) of subdivision
39 (k).

1 (G) The license numbers of all persons specified in
2 subparagraphs (A) to (F), inclusive, who are required to be licensed.
3 (H) A copy of the local ordinance for any city, county, or city
4 and county in which the game will be played. The department shall
5 post the ordinance on its Internet Web site.
6 (j) (1) A remote caller bingo game shall be operated and staffed
7 only by members of the authorized organization that organized it.
8 Those members shall not receive a profit, wage, or salary from
9 any remote caller bingo game. Only the organization authorized
10 to conduct a remote caller bingo game shall operate that game, or
11 participate in the promotion, supervision, or any other phase of a
12 remote caller bingo game. Subject to the provisions of subdivision
13 (m), this subdivision shall not preclude the employment of
14 administrative, managerial, technical, financial, or security
15 personnel who are not members of the authorized organization at
16 a location participating in the remote caller bingo game by the
17 organization conducting the game. Notwithstanding any other
18 provision of law, exclusive or other agreements between the
19 authorized organization and other entities or persons to provide
20 services in the administration, management, or conduct of the game
21 shall not be considered a violation of the prohibition against
22 holding a legally cognizable financial interest in the conduct of
23 the remote caller bingo game by persons or entities other than the
24 charitable organization, or other entity authorized to conduct the
25 remote caller bingo games, provided that those persons or entities
26 obtain the gambling licenses, the key employee licenses, or the
27 work permits required by, and otherwise comply with, Chapter 5
28 (commencing with Section 19800) of Division 8 of the Business
29 and Professions Code. Fees to be paid under any such agreements
30 shall be reasonable and shall not be determined as a percentage of
31 receipts or other revenues from, or be dependent on the outcome
32 of, the game.
33 (2) An organization that conducts a remote caller bingo game
34 shall designate a person as having fiduciary responsibility for the
35 game.
36 (k) No individual, corporation, partnership, or other legal entity,
37 except the organization authorized to conduct or participate in a
38 remote caller bingo game, shall hold a legally cognizable financial
39 interest in the conduct of such a game.

1 (l) An organization authorized to conduct a remote caller bingo
2 game pursuant to this section shall not have overhead costs
3 exceeding 20 percent of gross sales, except that the limitations of
4 this section shall not apply to one-time, nonrecurring capital
5 acquisitions. For purposes of this subdivision, “overhead costs”
6 includes, but is not limited to, amounts paid for rent and equipment
7 leasing and the reasonable fees authorized to be paid to
8 administrative, managerial, technical, financial, and security
9 personnel employed by the organization pursuant to subdivision
10 (d). For the purpose of keeping its overhead costs below 20 percent
11 of gross sales, an authorized organization may elect to deduct all
12 or a portion of the fees paid to financial institutions for the use and
13 processing of credit card sales from the amount of gross revenues
14 awarded for prizes. In that case, the redirected fees for the use and
15 processing of credit card sales shall not be included in “overhead
16 costs” as defined in the California Remote Caller Bingo Act.
17 Additionally, fees paid to financial institutions for the use and
18 processing of credit card sales shall not be deducted from the
19 proceeds retained by the charitable organization.

20 (m) A person shall not be allowed to participate in a remote
21 caller bingo game unless the person is physically present at the
22 time and place where the remote caller bingo game is being
23 conducted. A person shall be deemed to be physically present at
24 the place where the remote caller bingo game is being conducted
25 if he or she is present at any of the locations participating in the
26 remote caller bingo game in accordance with this section.

27 (n) (1) An organization shall not cosponsor a remote caller
28 bingo game with one or more other organizations unless one of
29 the following is true:

30 (A) All of the cosponsors are affiliated under the master charter
31 or articles and bylaws of a single organization.

32 (B) All of the cosponsors are affiliated through an organization
33 described in paragraph (1) of subdivision (b), and have the same
34 Internal Revenue Service activity code.

35 (2) Notwithstanding paragraph (1), a maximum of 10
36 unaffiliated organizations described in paragraph (1) of subdivision
37 (b) may enter into an agreement to cosponsor a remote caller game,
38 provided that the game shall have not more than 10 locations.

39 (3) An organization shall not conduct remote caller bingo more
40 than two days per week.

1 (4) Before sponsoring or operating any game authorized under
2 paragraph (1) or (2), each of the cosponsoring organizations shall
3 have entered into a written agreement, a copy of which shall be
4 provided to the Department of Justice, setting forth how the
5 expenses and proceeds of the game are to be allocated among the
6 participating organizations, the bank accounts into which all
7 receipts are to be deposited and from which all prizes are to be
8 paid, and how game records are to be maintained and subjected to
9 annual audit.

10 (o) The value of prizes awarded during the conduct of any
11 remote caller bingo game shall not exceed 37 percent of the gross
12 receipts for that game. When an authorized organization elects to
13 deduct fees paid for the use and processing of credit card sales
14 from the amount of gross revenues for that game awarded for
15 prizes, the maximum amount of gross revenues that may be
16 awarded for prizes shall not exceed 37 percent of the gross receipts
17 for that game, less the amount of redirected fees paid for the use
18 and processing of credit card sales. Every remote caller bingo game
19 shall be played until a winner is declared. Progressive prizes are
20 prohibited. The declared winner of a remote caller bingo game
21 shall provide his or her identifying information and a mailing
22 address to the onsite manager of the remote caller bingo game.
23 Prizes shall be paid only by check; no cash prizes shall be paid.
24 The organization conducting the remote caller bingo game may
25 issue a check to the winner at the time of the game, or may send
26 a check to the declared winner by United States Postal Service
27 certified mail, return receipt requested. All prize money exceeding
28 state and federal exemption limits on prize money shall be subject
29 to income tax reporting and withholding requirements under
30 applicable state and federal laws and regulations and those reports
31 and withholding shall be forwarded, within 10 business days, to
32 the appropriate state or federal agency on behalf of the winner. A
33 report shall accompany the amount withheld identifying the person
34 on whose behalf the money is being sent. Any game interrupted
35 by a transmission failure, electrical outage, or act of God shall be
36 considered void in the location that was affected. A refund for a
37 canceled game or games shall be provided to the purchasers.

38 (p) (1) The California Gambling Control Commission shall
39 regulate remote caller bingo, including, but not limited to, licensure

1 and operation. The commission shall establish reasonable criteria
2 regulating, and shall require the licensure of, the following:

3 (A) Any person who conducts a remote caller bingo game
4 pursuant to this section, including, but not limited to, an employee,
5 a person having fiduciary responsibility for a remote caller bingo
6 game, a site manager, and a bingo caller.

7 (B) Any person who directly or indirectly manufactures,
8 distributes, supplies, vends, leases, or otherwise provides supplies,
9 devices, services, or other equipment designed for use in the
10 playing of a remote caller bingo game by any nonprofit
11 organization.

12 (C) Beginning January 31, 2009, or a later date as may be
13 established by the commission, all persons described in
14 subparagraph (A) or (B) may submit to the commission a letter of
15 intent to submit an application for licensure. The letter shall clearly
16 identify the principal applicant, all categories under which the
17 application will be filed, and the names of all those particular
18 individuals who are applying. Each charitable organization shall
19 provide an estimate of the frequency with which it plans to conduct
20 remote caller bingo operations, including the number of locations.
21 The letter of intent may be withdrawn or updated at any time.

22 (2) (A) The Department of Justice shall conduct background
23 investigations and conduct field enforcement as it relates to remote
24 caller bingo consistent with the Gambling Control Act (Chapter 5
25 (commencing with Section 19800) of Division 8 of the Business
26 and Professions Code) and as specified in regulations promulgated
27 by the commission.

28 (B) Fees to cover background investigation costs shall be paid
29 and accounted for in accordance with Section 19867 of the
30 Business and Professions Code.

31 (3) (A) Every application for a license or approval shall be
32 *submitted to the department and* accompanied by a nonrefundable
33 fee, the amount of which shall be adopted by the commission by
34 regulation.

35 (B) Fees and revenue collected pursuant to this paragraph shall
36 be deposited in the California Bingo Fund, which is hereby created
37 in the State Treasury. The funds deposited in the California Bingo
38 Fund shall be available, upon appropriation by the Legislature, for
39 expenditure by the commission and the department exclusively
40 for the support of the commission and department in carrying out

1 their duties and responsibilities under this section and Section
2 326.5.

3 (C) A loan is hereby authorized from the Gambling Control
4 Fund to the California Bingo Fund on or after January 1, 2009, in
5 an amount of up to five hundred thousand dollars (\$500,000) to
6 fund operating, personnel, and other startup costs incurred by the
7 commission relating to this act. Funds from the California Bingo
8 Fund shall be available to the commission upon appropriation by
9 the Legislature in the annual Budget Act. The loan shall be subject
10 to all of the following conditions:

11 (i) The loan shall be repaid to the Gambling Control Fund as
12 soon as there is sufficient money in the California Bingo Fund to
13 repay the amount loaned, but no later than five years after the date
14 of the loan.

15 (ii) Interest on the loan shall be paid from the California Bingo
16 Fund at the rate accruing to moneys in the Pooled Money
17 Investment Account.

18 (iii) The terms and conditions of the loan are approved, prior
19 to the transfer of funds, by the Department of Finance pursuant to
20 appropriate fiscal standards.

21 ~~The commission may assess and collect~~ *assess, and the*
22 *department may collect*, reasonable fees and deposits as necessary
23 to defray the costs of regulation and oversight.

24 (q) The administrative, managerial, technical, financial, and
25 security personnel employed by an organization that conducts
26 remote caller bingo games shall apply for, obtain, and thereafter
27 maintain valid work permits, as defined in Section 19805 of the
28 Business and Professions Code.

29 (r) An organization that conducts remote caller bingo games
30 shall retain records in connection with the remote caller bingo
31 game for five years.

32 (s) (1) All equipment used for remote caller bingo shall be
33 approved in advance by the Department of Justice pursuant to
34 regulations adopted ~~pursuant to subdivision (r) of Section 19841~~
35 ~~of the Business and Professions Code.~~ *by the department.*

36 (2) The department shall monitor operation of the transmission
37 and other equipment used for remote caller bingo, and monitor the
38 game.

39 (t) (1) As used in this section, “remote caller bingo game”
40 means a game of bingo, as defined in subdivision (o) of Section

1 326.5, in which the numbers or symbols on randomly drawn plastic
2 balls are announced by a natural person present at the site at which
3 the live game is conducted, and the organization conducting the
4 bingo game uses audio and video technology to link any of its
5 in-state facilities for the purpose of transmitting the remote calling
6 of a live bingo game from a single location to multiple locations
7 owned, leased, or rented by that organization, or as described in
8 subdivision (o) of this section. The audio or video technology used
9 to link the facilities may include cable, Internet, satellite,
10 broadband, or telephone technology, or any other means of
11 electronic transmission that ensures the secure, accurate, and
12 simultaneous transmission of the announcement of numbers or
13 symbols in the game from the location at which the game is called
14 by a natural person to the remote location or locations at which
15 players may participate in the game. The drawing of each ball
16 bearing a number or symbol by the natural person calling the game
17 shall be visible to all players as the ball is drawn, including through
18 a simultaneous live video feed at remote locations at which players
19 may participate in the game.

20 (2) The caller in the live game must be licensed by the California
21 Gambling Control Commission. A game may be called by a
22 nonlicensed caller if the drawing of balls and calling of numbers
23 or symbols by that person is observed and personally supervised
24 by a licensed caller.

25 (3) Remote caller bingo games shall be played using traditional
26 paper or other tangible bingo cards and daubers, and shall not be
27 played by using electronic devices, except card-minding devices,
28 as described in paragraph (1) of subdivision (p) of Section 326.5.

29 (4) Prior to conducting a remote caller bingo game, the
30 organization that conducts remote caller bingo shall submit to the
31 Department of Justice the controls, methodology, and standards
32 of game play, which shall include, but not be limited to, the
33 equipment used to select bingo numbers and create or originate
34 cards, control or maintenance, distribution to participating
35 locations, and distribution to players. Those controls,
36 methodologies, and standards shall be subject to prior approval by
37 the department, provided that the controls shall be deemed
38 approved by the department after 90 days from the date of
39 submission unless disapproved.

1 (u) A location shall not be eligible to participate in a remote
2 caller bingo game if bingo games are conducted at that location
3 in violation of Section 326.5 or any regulation adopted by the
4 commission pursuant to Section 19841 of the Business and
5 Professions Code, including, but not limited to, a location at which
6 unlawful electronic devices are used.

7 (v) (1) The vendor of the equipment used in a remote caller
8 bingo game shall have its books and records audited at least
9 annually by an independent California certified public accountant
10 and shall submit the results of that audit to the department within
11 120 days after the close of the vendor's fiscal year. In addition,
12 the department may audit the books and records of the vendor at
13 any time.

14 (2) An authorized organization that conducts remote caller bingo
15 games shall provide copies of the records pertaining to those games
16 to the department within 30 days after the end of each calendar
17 quarter. In addition, those records shall be audited by an
18 independent California certified public accountant at least annually
19 and copies of the audit reports shall be provided to the department
20 within 120 days after the close of the organization's fiscal year.
21 The audit report shall account for the annual amount of fees paid
22 to financial institutions for the use and processing of credit card
23 sales by the authorized organization and the amount of fees for
24 the use and processing of credit card sales redirected from
25 "overhead costs" and deducted from the amount of gross revenues
26 awarded for prizes.

27 (3) The costs of the licensing and audits required by this section
28 shall be borne by the person or entity required to be licensed or
29 audited. The audit shall enumerate the receipts for remote caller
30 bingo, the prizes disbursed, the overhead costs, and the amount
31 retained by the nonprofit organization. The department may audit
32 the books and records of an organization that conducts remote
33 caller bingo games at any time.

34 (4) If, during an audit, the department identifies practices in
35 violation of this section, the license for the audited entity may be
36 suspended pending review and hearing before the commission for
37 a final determination.

38 (5) Any audit required to be conducted by the department shall
39 not commence before January 1, 2010.

1 (w) (1) The provisions of this section are severable. If any
2 provision of this section or its application is held invalid, that
3 invalidity shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.

5 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of
6 subdivision (u), or the application of either of those provisions, is
7 held invalid, this entire section shall be invalid.

8 (x) The commission shall submit a report to the Legislature, on
9 or before January 1, 2012, on the fundraising effectiveness and
10 regulation of remote caller bingo, and other matters that are relevant
11 to the public interest regarding remote caller bingo.

12 (y) The following definitions apply for purposes of this section:

13 (1) “Commission” means the California Gambling Control
14 Commission.

15 (2) “Department” means the Department of Justice.

16 (3) “Person” includes a natural person, corporation, limited
17 liability company, partnership, trust, joint venture, association, or
18 any other business organization.

19 *SEC. 124. Section 326.4 of the Penal Code is amended to read:*

20 326.4. (a) Consistent with the Legislature’s finding that
21 card-minding devices, as described in subdivision (p) of Section
22 326.5, are the only permissible electronic devices to be used by
23 charity bingo players, and in an effort to ease the transition to
24 remote caller bingo on the part of those nonprofit organizations
25 that, as of July 1, 2008, used electronic devices other than
26 card-minding devices to conduct games in reliance on an ordinance
27 of a city, county, or city and county that, as of July 1, 2008,
28 expressly recognized the operation of electronic devices other than
29 card-minding devices by organizations purportedly authorized to
30 conduct bingo in the city, county, or city and county, there is
31 hereby created the Charity Bingo Mitigation Fund.

32 (b) The Charity Bingo Mitigation Fund shall be administered
33 by the ~~California Gambling Control Commission~~. *Department of*
34 *Justice*.

35 (c) Mitigation payments to be made by the Charity Bingo
36 Mitigation Fund shall not exceed five million dollars (\$5,000,000)
37 in the aggregate.

38 (d) (1) To allow the Charity Bingo Mitigation Fund to become
39 immediately operable, five million dollars (\$5,000,000) shall be
40 loaned from the accrued interest in the Indian Gaming Special

1 Distribution Fund to the Charity Bingo Mitigation Fund on or after
2 January 1, 2009, to make mitigation payments to eligible nonprofit
3 organizations. Five million dollars (\$5,000,000) of this loan amount
4 is hereby appropriated to the California Gambling Control
5 Commission for the purposes of providing mitigation payments
6 to certain charitable organizations, as described in subdivision (e).
7 Pursuant to Section 16304 of the Government Code, after three
8 years the unexpended balance shall revert back to the Charity
9 Bingo Mitigation Fund.

10 (2) To reimburse the Special Distribution Fund, those nonprofit
11 organizations that conduct a remote caller bingo game pursuant
12 to Section 326.3 shall pay to the ~~California Gambling Control~~
13 ~~Commission~~ *Department of Justice* an amount equal to 5 percent
14 of the gross revenues of each remote caller bingo game played
15 until that time as the full advanced amount plus interest on the
16 loan at the rate accruing to moneys in the Pooled Money
17 Investment Account is reimbursed.

18 (e) (1) An organization meeting the requirements in subdivision
19 (a) shall be eligible to receive mitigation payments from the Charity
20 Bingo Mitigation Fund only if the city, county, or city and county
21 in which the organization is located maintained official records of
22 the net revenues generated for the fiscal year ending June 30, 2008,
23 by the organization from the use of electronic devices or the
24 organization maintained audited financial records for the fiscal
25 year ending June 30, 2008, which show the net revenues generated
26 from the use of electronic devices.

27 (2) In addition, an organization applying for mitigation payments
28 shall provide proof that its board of directors has adopted a
29 resolution and its chief executive officer has signed a statement
30 executed under penalty of perjury stating that, as of January 1,
31 2009, the organization has ceased using electronic devices other
32 than card-minding devices, as described in subdivision (p) of
33 Section 326.5, as a fundraising tool.

34 (3) Each eligible organization may apply to the California
35 Gambling Control Commission no later than January 31, 2009,
36 for the mitigation payments in the amount equal to net revenues
37 from the fiscal year ending June 30, 2008, by filing an application,
38 including therewith documents and other proof of eligibility,
39 including any and all financial records documenting the
40 organization's net revenues for the fiscal year ending June 30,

1 2008, as the California Gambling Control Commission may require.
2 The California Gambling Control Commission is authorized to
3 access and examine the financial records of charities requesting
4 funding in order to confirm the legitimacy of the request for
5 funding. In the event that the total of those requests exceeds five
6 million dollars (\$5,000,000), payments to all eligible applicants
7 shall be reduced in proportion to each requesting organization's
8 reported or audited net revenues from the operation of electronic
9 devices.

10 ~~SEC. 115.~~

11 *SEC. 125.* Section 326.5 of the Penal Code is amended to read:

12 326.5. (a) Neither the prohibition on gambling in this chapter
13 nor in Chapter 10 (commencing with Section 330) applies to any
14 bingo game that is conducted in a city, county, or city and county
15 pursuant to an ordinance enacted under Section 19 of Article IV
16 of the State Constitution, if the ordinance allows games to be
17 conducted only in accordance with this section and only by
18 organizations exempted from the payment of the bank and
19 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
20 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
21 Taxation Code and by mobilehome park associations, senior
22 citizens organizations, and charitable organizations affiliated with
23 a school district; and if the receipts of those games are used only
24 for charitable purposes.

25 (b) It is a misdemeanor for any person to receive or pay a profit,
26 wage, or salary from any bingo game authorized by Section 19 of
27 Article IV of the State Constitution. Security personnel employed
28 by the organization conducting the bingo game may be paid from
29 the revenues of bingo games, as provided in subdivisions (j) and
30 (k).

31 (c) A violation of subdivision (b) shall be punishable by a fine
32 not to exceed ten thousand dollars (\$10,000), which fine is
33 deposited in the general fund of the city, county, or city and county
34 that enacted the ordinance authorizing the bingo game. A violation
35 of any provision of this section, other than subdivision (b), is a
36 misdemeanor.

37 (d) The city, county, or city and county that enacted the
38 ordinance authorizing the bingo game may bring an action to enjoin
39 a violation of this section.

40 (e) Minors shall not be allowed to participate in any bingo game.

1 (f) An organization authorized to conduct bingo games pursuant
2 to subdivision (a) shall conduct a bingo game only on property
3 owned or leased by it, or property whose use is donated to the
4 organization, and which property is used by that organization for
5 an office or for performance of the purposes for which the
6 organization is organized. Nothing in this subdivision shall be
7 construed to require that the property owned or leased by, or whose
8 use is donated to, the organization be used or leased exclusively
9 by, or donated exclusively to, that organization.

10 (g) All bingo games shall be open to the public, not just to the
11 members of the authorized organization.

12 (h) A bingo game shall be operated and staffed only by members
13 of the authorized organization that organized it. Those members
14 shall not receive a profit, wage, or salary from any bingo game.
15 Only the organization authorized to conduct a bingo game shall
16 operate such a game, or participate in the promotion, supervision,
17 or any other phase of a bingo game. This subdivision does not
18 preclude the employment of security personnel who are not
19 members of the authorized organization at a bingo game by the
20 organization conducting the game.

21 (i) Any individual, corporation, partnership, or other legal entity,
22 except the organization authorized to conduct a bingo game, shall
23 not hold a financial interest in the conduct of a bingo game.

24 (j) With respect to organizations exempt from payment of the
25 bank and corporation tax by Section 23701d of the Revenue and
26 Taxation Code, all profits derived from a bingo game shall be kept
27 in a special fund or account and shall not be commingled with any
28 other fund or account. Those profits shall be used only for
29 charitable purposes.

30 (k) With respect to other organizations authorized to conduct
31 bingo games pursuant to this section, all proceeds derived from a
32 bingo game shall be kept in a special fund or account and shall not
33 be commingled with any other fund or account. Proceeds are the
34 receipts of bingo games conducted by organizations not within
35 subdivision (j). Those proceeds shall be used only for charitable
36 purposes, except as follows:

37 (1) The proceeds may be used for prizes.

38 (2) (A) Except as provided in subparagraph (B), a portion of
39 the proceeds, not to exceed 20 percent of the proceeds before the
40 deduction for prizes, or two thousand dollars (\$2,000) per month,

1 whichever is less, may be used for the rental of property and for
2 overhead, including the purchase of bingo equipment,
3 administrative expenses, security equipment, and security
4 personnel.

5 (B) For the purposes of bingo games conducted by the Lake
6 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
7 percent of the proceeds before the deduction for prizes, or three
8 thousand dollars (\$3,000) per month, whichever is less, may be
9 used for the rental of property and for overhead, including the
10 purchase of bingo equipment, administrative expenses, security
11 equipment, and security personnel. Any amount of the proceeds
12 that is additional to that permitted under subparagraph (A), up to
13 one thousand dollars (\$1,000), shall be used for the purpose of
14 financing the rebuilding of the facility and the replacement of
15 equipment that was destroyed by fire in 2007. The exception to
16 subparagraph (A) that is provided by this subparagraph shall remain
17 in effect only until the cost of rebuilding the facility is repaid, or
18 January 1, 2019, whichever occurs first.

19 (3) The proceeds may be used to pay license fees.

20 (4) A city, county, or city and county that enacts an ordinance
21 permitting bingo games may specify in the ordinance that if the
22 monthly gross receipts from bingo games of an organization within
23 this subdivision exceed five thousand dollars (\$5,000), a minimum
24 percentage of the proceeds shall be used only for charitable
25 purposes not relating to the conducting of bingo games and that
26 the balance shall be used for prizes, rental of property, overhead,
27 administrative expenses, and payment of license fees. The amount
28 of proceeds used for rental of property, overhead, and
29 administrative expenses is subject to the limitations specified in
30 paragraph (2).

31 (l) (1) A city, county, or city and county may impose a license
32 fee on each organization that it authorizes to conduct bingo games.
33 The fee, whether for the initial license or renewal, shall not exceed
34 fifty dollars (\$50) annually, except as provided in paragraph (2).
35 If an application for a license is denied, one-half of any license
36 fee paid shall be refunded to the organization.

37 (2) In lieu of the license fee permitted under paragraph (1), a
38 city, county, or city and county may impose a license fee of fifty
39 dollars (\$50) paid upon application. If an application for a license
40 is denied, one-half of the application fee shall be refunded to the

1 organization. An additional fee for law enforcement and public
2 safety costs incurred by the city, county, or city and county that
3 are directly related to bingo activities may be imposed and shall
4 be collected monthly by the city, county, or city and county issuing
5 the license; however, the fee shall not exceed the actual costs
6 incurred in providing the service.

7 (m) A person shall not be allowed to participate in a bingo game,
8 unless the person is physically present at the time and place where
9 the bingo game is being conducted.

10 (n) The total value of prizes available to be awarded during the
11 conduct of any bingo games shall not exceed five hundred dollars
12 (\$500) in cash or kind, or both, for each separate game which is
13 held.

14 (o) As used in this section, “bingo” means a game of chance in
15 which prizes are awarded on the basis of designated numbers or
16 symbols that are marked or covered by the player on a tangible
17 card in the player’s possession and that conform to numbers or
18 symbols, selected at random and announced by a live caller.
19 Notwithstanding Section 330c, as used in this section, the game
20 of bingo includes tangible cards having numbers or symbols that
21 are concealed and preprinted in a manner providing for distribution
22 of prizes. Electronics or video displays shall not be used in
23 connection with the game of bingo, except in connection with the
24 caller’s drawing of numbers or symbols and the public display of
25 that drawing, and except as provided in subdivision (p). The
26 winning cards shall not be known prior to the game by any person
27 participating in the playing or operation of the bingo game. All
28 preprinted cards shall bear the legend, “for sale or use only in a
29 bingo game authorized under California law and pursuant to local
30 ordinance.” Only a covered or marked tangible card possessed by
31 a player and presented to an attendant may be used to claim a prize.
32 It is the intention of the Legislature that bingo as defined in this
33 subdivision applies exclusively to this section and shall not be
34 applied in the construction or enforcement of any other provision
35 of law.

36 (p) (1) Players who are physically present at a bingo game may
37 use hand-held, portable card-minding devices, as described in this
38 subdivision, to assist in monitoring the numbers or symbols
39 announced by a live caller as those numbers or symbols are called
40 in a live game. Card-minding devices may not be used in

1 connection with any game where a bingo card may be sold or
2 distributed after the start of the ball draw for that game. A
3 card-minding device shall do all of the following:

4 (A) Be capable of storing in the memory of the device bingo
5 faces of tangible cards purchased by a player.

6 (B) Provide a means for bingo players to input manually each
7 individual number or symbol announced by a live caller.

8 (C) Compare the numbers or symbols entered by the player to
9 the bingo faces previously stored in the memory of the device.

10 (D) Identify winning bingo patterns that exist on the stored
11 bingo faces.

12 (2) A card-minding device shall perform no functions involving
13 the play of the game other than those described in paragraph (1).
14 Card-minding devices shall not do any of the following:

15 (A) Be capable of accepting or dispensing any coins, currency,
16 or other representative of value or on which value has been
17 encoded.

18 (B) Be capable of monitoring any bingo card face other than
19 the faces of the tangible bingo card or cards purchased by the
20 player for that game.

21 (C) Display or represent the game result through any means,
22 including, but not limited to, video or mechanical reels or other
23 slot machine or casino game themes, other than highlighting the
24 winning numbers or symbols marked or covered on the tangible
25 bingo cards or giving an audio alert that the player's card has a
26 prize-winning pattern.

27 (D) Determine the outcome of any game or be physically or
28 electronically connected to any component that determines the
29 outcome of a game or to any other bingo equipment, including,
30 but not limited to, the ball call station, or to any other card-minding
31 device. No other player-operated or player-activated electronic or
32 electromechanical device or equipment is permitted to be used in
33 connection with a bingo game.

34 (3) (A) A card-minding device shall be approved in advance
35 by the department as meeting the requirements of this section and
36 any additional requirements stated in regulations adopted by the
37 ~~commission~~ department. Any proposed material change to the
38 device, including any change to the software used by the device,
39 shall be submitted to the department and approved by the
40 department prior to implementation.

1 (B) In accordance with Chapter 5 (commencing with Section
2 19800) of Division 8 of the Business and Professions Code, the
3 commission shall establish reasonable criteria for, and require the
4 licensure of, any person that directly or indirectly manufactures,
5 distributes, supplies, vends, leases, or otherwise provides
6 card-minding devices or other supplies, equipment, or services
7 related to card-minding devices designed for use in the playing of
8 bingo games by any nonprofit organization.

9 (C) A person or entity that supplies or services any card-minding
10 device shall meet all licensing requirements established by the
11 commission in regulations.

12 (4) The costs of any testing, certification, license, or
13 determination required by this subdivision shall be borne by the
14 person or entity seeking it.

15 (5) On and after January 1, 2010, ~~the commission and the~~
16 Department of Justice may inspect all card-minding devices at any
17 time without notice, and may immediately prohibit the use of any
18 device that does not comply with the requirements ~~made pursuant~~
19 ~~to subdivision (r) of Section 19841 of the Business and Professions~~
20 ~~Code.~~ *established by the department in regulations.* The
21 Department of Justice may at any time, without notice, impound
22 any device the use of which has been prohibited by the commission.

23 (6) The Department of Justice shall issue regulations to
24 implement the requirements of this subdivision, and the California
25 Gambling Control Commission may issue regulations regarding
26 the means by which the operator of a bingo game, as required by
27 applicable law, may offer assistance to a player with disabilities
28 in order to enable that player to participate in a bingo game,
29 provided that the means of providing that assistance shall not be
30 through any electronic, electromechanical, or other device or
31 equipment that accepts the insertion of any coin, currency, token,
32 credit card, or other means of transmitting value, and does not
33 constitute or is not a part of a system that constitutes a video lottery
34 terminal, slot machine, or device prohibited by Chapter 10
35 (commencing with Section 330).

36 (7) The following definitions apply for purposes of this
37 subdivision:

38 (A) "Commission" means the California Gambling Control
39 Commission.

40 (B) "Department" means the Department of Justice.

1 (C) “Person” includes a natural person, corporation, limited
2 liability company, partnership, trust, joint venture, association, or
3 any other business organization.

4 ~~SEC. 116.~~

5 *SEC. 126.* Section 25464 of the Public Resources Code is
6 amended to read:

7 25464. (a) For purposes of this section, the following
8 definitions apply:

9 (1) “Fund” means the Clean and Renewable Energy Business
10 Financing Revolving Loan Fund.

11 (2) “Program” means the Clean and Renewable Energy Business
12 Financing Revolving Loan Program.

13 (b) (1) The commission may use federal funds available
14 pursuant to this chapter to implement the Clean and Renewable
15 Energy Business Financing Revolving Loan Program to provide
16 low interest loans to California clean and renewable energy
17 manufacturing businesses.

18 (2) The commission may use other funding sources to leverage
19 loans awarded under the program.

20 (c) The commission may work directly with the Governor’s
21 Office of Business and Economic Development, the Treasurer, or
22 any other state agency, board, commission, or authority to
23 implement and administer the program, and may contract for
24 private services as needed to implement the program.

25 (d) The commission may collect an application fee from
26 applicants applying for funding under the program to help offset
27 the costs of administering the program.

28 (e) (1) The Clean and Renewable Energy Business Financing
29 Revolving Loan Fund is hereby established in the State Treasury
30 to implement the program. The commission is authorized to
31 administer the fund for this purpose. Notwithstanding Section
32 13340 of the Government Code, the money in the fund is
33 continuously appropriated to the commission, without regard to
34 fiscal years, to implement the program.

35 (2) Upon direction by the commission, the Controller shall create
36 any accounts or subaccounts within the fund that the commission
37 determines are necessary to facilitate management of the fund.

38 (3) The Controller shall disburse and receive moneys in the fund
39 for purposes of the program and as authorized by the commission.

1 (4) All loans and repayments of loans made pursuant to this
2 section, including interest payments, penalty payments, and all
3 interest earning on or accruing to any moneys in the fund, shall be
4 deposited in the fund and shall be available for the purposes of
5 this section.

6 (5) The commission may expend up to 5 percent of moneys in
7 the fund for its administrative costs to implement the program.

8 (f) Federal funds available to the commission pursuant to this
9 chapter shall be transferred to the fund in the loan amounts when
10 loans are awarded under the program by the commission.

11 ~~SEC. 117.~~

12 *SEC. 127.* Section 41136 of the Revenue and Taxation Code
13 is amended to read:

14 41136. From the funds in the State Emergency Telephone
15 Number Account, a minimum of one-half of 1 percent of the
16 charges for intrastate telephone communications and VoIP service
17 to which the surcharge applies shall, when appropriated by the
18 Legislature, be spent solely for the following purposes:

19 (a) To pay refunds authorized by this part.

20 (b) To pay the State Board of Equalization for the cost of the
21 administration of this part.

22 (c) To pay the Department of Technology for its costs in
23 administration of the “911” emergency telephone number system.

24 (d) To pay bills submitted to the Department of Technology by
25 service suppliers or communications equipment companies for the
26 installation of, and ongoing expenses for, the following
27 communications services supplied to local agencies in connection
28 with the “911” emergency phone number system:

29 (1) A basic system.

30 (2) A basic system with telephone central office identification.

31 (3) A system employing automatic call routing.

32 (4) Approved incremental costs.

33 (e) To pay claims of local agencies for approved incremental
34 costs, not previously compensated for by another governmental
35 agency.

36 (f) To pay claims of local agencies for incremental costs and
37 amounts, not previously compensated for by another governmental
38 agency, incurred prior to the effective date of this part, for the
39 installation and ongoing expenses for the following communication

1 services supplied in connection with the “911” emergency
2 telephone number system:

- 3 (1) A basic system.
- 4 (2) A basic system with telephone central office identification.
- 5 (3) A system employing automatic call routing.
- 6 (4) Approved incremental costs. Incremental costs shall not be
7 allowed unless the costs are concurred in by the Department of
8 Technology.

9 ~~SEC. 118.~~

10 *SEC. 128.* Section 335 of the Unemployment Insurance Code
11 is amended to read:

12 335. The department, in consultation and coordination with
13 the film and movie industry, the Governor’s Office of Business
14 and Economic Development, and the California Film Commission
15 shall do all of the following, contingent upon the appropriation of
16 funds in the annual Budget Act for these specified purposes:

- 17 (a) Research and maintain data on the employment and output
18 of the film industry, including full-time, part-time, contract, and
19 short duration or single event employees.
- 20 (b) Examine the ethnic diversity and representation of minorities
21 in the entertainment industry.
- 22 (c) Determine the overall direct and indirect economic impact
23 of the film industry.
- 24 (d) Monitor film industry employment and activity in other
25 states and countries that compete with California for film
26 production.
- 27 (e) Review the effect that federal and state laws and local
28 ordinances have on the filmed entertainment industry.
- 29 (f) Prepare and release biannually a report to the chairpersons
30 of the appropriate Senate and Assembly policy committees that
31 details the information required by this section.

32 ~~SEC. 119.~~

33 *SEC. 129.* Section 10200 of the Unemployment Insurance Code
34 is amended to read:

35 10200. The Legislature finds and declares the following:

- 36 (a) California’s economy is being challenged by competition
37 from other states and overseas. In order to meet this challenge,
38 California’s employers, workers, labor organizations, and
39 government need to invest in a skilled and productive workforce,
40 and in developing the skills of frontline workers. For purposes of

1 this section, “frontline worker” means a worker who directly
2 produces or delivers goods or services.

3 The purpose of this chapter is to establish a strategically designed
4 employment training program to promote a healthy labor market
5 in a growing, competitive economy that shall fund only projects
6 that meet the following criteria:

7 (1) Foster creation of high-wage, high-skilled jobs, or foster
8 retention of high-wage, high-skilled jobs in manufacturing and
9 other industries that are threatened by out-of-state and global
10 competition, including, but not limited to, those industries in which
11 targeted training resources for California’s small and medium-sized
12 business suppliers will increase the state’s competitiveness to
13 secure federal, private sector, and other nonstate funds. In addition,
14 provide for retraining contracts in companies that make a monetary
15 or in-kind contribution to the funded training enhancements.

16 (2) Encourage industry-based investment in human resources
17 development that promotes the competitiveness of California
18 industry through productivity and product quality enhancements.

19 (3) Result in secure jobs for those who successfully complete
20 training. All training shall be customized to the specific
21 requirements of one or more employers or a discrete industry and
22 shall include general skills that trainees can use in the future.

23 (4) Supplement, rather than displace, funds available through
24 existing programs conducted by employers and government-funded
25 training programs, such as the Workforce Investment Act of 1998
26 (29 U.S.C. Sec. 2801 et seq.), the Carl D. Perkins Vocational
27 Education Act (Public Law 98-524), CalWORKs (Chapter 2
28 (commencing with Section 11200) of Part 3 of Division 9 of the
29 Welfare and Institutions Code), the Enterprise Zone Act (Chapter
30 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
31 the Government Code), and the McKinney-Vento Homeless
32 Assistance Act (42 U.S.C. Sec. 11301 et seq.), the California
33 Community Colleges Economic Development Program, or
34 apportionment funds allocated to the community colleges, regional
35 occupational centers and programs, or other local educational
36 agencies. In addition, it is further the intention of the Legislature
37 that programs developed pursuant to this chapter shall not replace,
38 parallel, supplant, compete with, or duplicate in any way already
39 existing approved apprenticeship programs.

1 (b) The Employment Training Panel, in funding projects that
2 meet the requirements of subdivision (a), shall give funding priority
3 to those projects that best meet the following goals:

4 (1) Result in the growth of the California economy by
5 stimulating exports from the state and the production of goods and
6 services that would otherwise be imported from outside the state.

7 (2) Train new employees of firms locating or expanding in the
8 state that provide high-skilled, high-wage jobs and are committed
9 to an ongoing investment in the training of frontline workers.

10 (3) Develop workers with skills that prepare them for the
11 challenges of a high performance workplace of the future.

12 (4) Train workers who have been displaced, have received
13 notification of impending layoff, or are subject to displacement,
14 because of a plant closure, workforce reduction, changes in
15 technology, or significantly increasing levels of international and
16 out-of-state competition.

17 (5) Are jointly developed by business management and worker
18 representatives.

19 (6) Develop career ladders for workers.

20 (7) Promote the retention and expansion of the state's
21 manufacturing workforce.

22 (c) The program established through this chapter is to be
23 coordinated with all existing employment training programs and
24 economic development programs, including, but not limited to,
25 programs such as the Workforce Investment Act of 1998 (29 U.S.C.
26 Sec. 2801 et seq.), the California Community Colleges, the regional
27 occupational programs, vocational education programs, joint
28 labor-management training programs, and related programs under
29 the Employment Development Department and the Governor's
30 Office of Business and Economic Development, and the Business,
31 Consumer Services, and Housing Agency.

32 ~~SEC. 120.~~

33 *SEC. 130.* Section 10202.5 of the Unemployment Insurance
34 Code is amended to read:

35 10202.5. (a) The panel shall consist of eight persons, seven
36 of whom shall be appointed as provided in subdivision (b), and
37 shall have experience and a demonstrated interest in business
38 management and employment relations. The Director of the
39 Governor's Office of Business and Economic Development, or

1 his or her designee, shall also serve on the panel as an ex officio,
2 voting member.

3 (b) (1) Two members of the panel shall be appointed by the
4 Speaker of the Assembly. One of those members shall be a private
5 sector labor representative and the other member shall be a business
6 representative.

7 (2) Two members of the panel shall be appointed by the
8 President pro Tempore of the Senate. One of those members shall
9 be a private sector labor representative and the other member shall
10 be a business representative.

11 (3) Three members of the panel shall be appointed by the
12 Governor. One of those members shall be a private sector labor
13 representative, one member shall be a business representative, and
14 one member shall be a public member.

15 (4) Labor appointments shall be made from nominations from
16 state labor federations. Business appointments shall be made from
17 nominations from state business organizations and business trade
18 associations.

19 (5) The Governor shall designate a member to chair the panel,
20 and the person so designated shall serve as the chair of the panel
21 at the pleasure of the Governor.

22 (c) The appointive members of the panel shall serve for two-year
23 terms.

24 (d) Appointive members of the panel shall receive the necessary
25 traveling and other expenses incurred by them in the performance
26 of their official duties out of appropriations made for the support
27 of the panel. In addition, each appointive member of the panel
28 shall receive one hundred dollars (\$100) for each day attending
29 meetings of the panel, and may receive one hundred dollars (\$100)
30 for each day spent conducting other official business of the panel,
31 but not exceeding a maximum of three hundred dollars (\$300) per
32 month.

33 ~~SEC. 121.~~

34 *SEC. 131.* Section 15002 of the Unemployment Insurance Code
35 is amended to read:

36 15002. (a) The California Workforce Investment Board
37 (CWIB) shall establish a special committee known as the Green
38 Collar Jobs Council (GCJC), comprised of the appropriate
39 representatives from the CWIB existing membership, including
40 the K-12 representative, the California Community Colleges

1 representative, the Governor’s Office of Business and Economic
2 Development representative, the Employment Development
3 Department representative, and other appropriate members. The
4 GCJC may consult with other state agencies, other higher education
5 representatives, local workforce investment boards, and industry
6 representatives as well as philanthropic, nongovernmental, and
7 environmental groups, as appropriate, in the development of a
8 strategic initiative. To the extent private funds are available, is the
9 intent of the Legislature that the GCJC will develop an annual
10 award for outstanding achievement for workforce training programs
11 operated by local or state agencies, businesses, or nongovernment
12 organizations to be named after Parrish R. Collins.

13 (b) As part of the strategic initiative, the GCJC shall focus on
14 developing the framework, funding, strategies, programs, policies,
15 partnerships, and opportunities necessary to address the growing
16 need for a highly skilled and well-trained workforce to meet the
17 needs of California’s emerging green economy. The GCJC shall
18 do all of the following:

19 (1) Assist in identifying and linking green collar job
20 opportunities with workforce development training opportunities
21 in local workforce investment areas (LWIAs), encouraging regional
22 collaboration among LWIAs to meet regional economic demands.

23 (2) Align workforce development activities with regional
24 economic recovery and growth strategies.

25 (3) Develop public, private, philanthropic, and nongovernmental
26 partnerships to build and expand the state’s workforce development
27 programs, network, and infrastructure.

28 (4) Provide policy guidance for job training programs for the
29 clean and green technology sectors to help them prepare specific
30 populations, such as at-risk youth, displaced workers, veterans,
31 formerly incarcerated individuals, and others facing barriers to
32 employment.

33 (5) Develop, collect, analyze, and distribute statewide and
34 regional labor market data on California’s new and emerging green
35 industries workforce needs, trends, and job growth.

36 (6) Collaborate with community colleges and other educational
37 institutions, registered apprenticeship programs, business and labor
38 organizations, and community-based and philanthropic
39 organizations to align workforce development services with
40 strategies for regional economic growth.

1 (7) Identify funding resources and make recommendations on
2 how to expand and leverage these funds.

3 (8) Foster regional collaboratives in the green economic sector.

4 (c) The CWIB may accept any revenues, moneys, grants, goods,
5 or services from federal and state entities, philanthropic
6 organizations, and other sources, to be used for purposes relating
7 to the administration and implementation of the strategic initiative,
8 as described in subdivision (b). The CWIB shall also ensure the
9 highest level of transparency and accountability and make
10 information available on the CWIB Internet Web site.

11 (d) Upon appropriation by the Legislature, the department may
12 expend the moneys and revenues received pursuant to subdivision
13 (c) for purposes related to the administration and implementation
14 of the strategic initiative, and for the award of workforce training
15 grants implementing the strategic initiative.

16 ~~SEC. 122.~~

17 *SEC. 132.* This act shall become operative on July 1, 2013,
18 except that Section ~~7~~ 12 of this act, amending Section 5405 of the
19 Civil Code, shall become operative on January 1, 2014.

20 ~~SEC. 123.~~

21 *SEC. 133.* This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 To allow programmatic changes in statute to be operative at the
26 same time the Governor’s Reorganization Plan No. 2 of 2012
27 becomes operative, it is necessary that this act take effect
28 immediately.