An act to amend Sections 12214, 12306, 17207, 17405.1, 22107, 22707, 23016, 23046, 50302, 50314, and 50401 of the Financial Code, relating to financial service providers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1341, as introduced, Brown. Department of Business Oversight: financial service providers: costs of licensing and regulations.

Existing law authorizes the Commissioner of Business Oversight to require certain financial service providers that are licensed and regulated by the Department of Business Oversight, including, among others, check sellers, proraters, escrow agents, finance lenders and brokers, residential mortgage lenders or servicers, and businesses making deferred deposit transactions, to pay their pro rata share of the costs and expenses of the department’s licensing and regulating activities. A violation of the licensing laws applicable to these financial service providers is a crime.

This bill would revise these provisions to require a licensee under the supervision of the department to pay to the commissioner its pro rata share of all costs and expenses in an amount sufficient, in the commissioner’s judgment, to meet the expenses of the department in administering the applicable licensing law for the next year that includes, but shall not be limited to, the cost of routine examinations and the provision of a reasonable reserve for contingencies, with a consideration of any deficit or less any surplus actually incurred in the prior fiscal year, as specified. The bill would make May 31 the uniform date for
the commissioner to notify these licensees of the amount assessed for
the next year, and generally give 30 days to all of these licensees to pay
the assessment. The bill would authorize the commissioner, whenever
he or she found it is necessary or advisable, to conduct a nonroutine
examination of, or to devote any extraordinary attention to, any licensee
and charge and collect from that licensee the department’s expenses,
including, but not limited to, hourly wages and travel costs, for doing
so. The bill would authorize the commissioner to maintain an action
for the recovery of these costs in any court of competent jurisdiction.

This bill would raise the minimum assessment for a licensee under
the Check Sellers, Bill Payers and Proraters Law from $150 to $1,000,
and the California Finance Lenders Law from $250 to $800. The bill
would modify the minimum calculation of an assessment for a licensee
under the Escrow Law based on $5,000 per main office and $3,500 per
each branch location, and the California Residential Mortgage Lending
Act, based on mortgages loan originated by the licensee.

State-mandated local program: no.

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

SECTION 1. Section 12214 of the Financial Code is amended
to read:
12214. (a) An applicant at the time of filing an application for
a license under this division shall pay to the commissioner the sum
of fifty dollars ($50) as a fee for investigating the application and
two hundred dollars ($200) as an application fee. The investigation
fee and application fee are not refundable if an application is denied
or withdrawn.

(b) (1) Each licensee shall pay to the commissioner its pro rata
share of all costs and expenses, reasonably incurred in the
administration of this division as estimated by the commissioner
for the ensuing year and any deficit actually incurred or anticipated
in the administration of the programs in the year in which such
assessment is made. The pro rata share shall be the proportion
which a licensee’s gross income bears to the aggregate gross
income of all licensees as shown by the annual financial reports
to the commissioner. The pro rata share shall not include the costs
of any examinations provided for in Section 12306, unless they
cannot be collected from the licensee examined.
(b) (1) Each licensee under the supervision of the department shall pay to the commissioner its pro rata share of all costs and expenses in an amount sufficient, in the commissioner’s judgment, to meet the expenses of the department in administering the law for the next year that shall include, but not be limited to, the cost of examination pursuant to Section 12306, and the provision of a reasonable reserve for contingencies, with a consideration of any deficit or less any surplus actually incurred in the prior fiscal year. The pro rata share shall be determined by the proportion which a licensee’s gross income bears to the aggregate gross income of all licensees, as shown by the annual financial reports to the commissioner, for the costs and expenses remaining after the amount assessed pursuant to paragraph (3).

(2) On or before the 30th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall may assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(3) In the levying and collection of the assessment, a licensee shall not be assessed for nor be permitted to pay less than one hundred fifty dollars ($150) one thousand dollars ($1,000) per year.

(4) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to such licensee. If, after such an order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

SEC. 2. Section 12306 of the Financial Code is amended to read:

12306. (a) The cost of every a routine examination of a licensee or other person subject to this division shall be paid to the
commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year, included in the annual assessment pursuant to Section 12214. The cost of a routine examination shall be determined by the expenses deemed necessary by the department to carry out its duties, including, but not limited to, the estimated cost for all persons performing examinations for the fiscal year. For the purposes of this section only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

(b) Whenever in the judgment of the commissioner it is necessary or advisable to conduct a nonroutine examination of, or to devote any extraordinary attention to, any licensee, the commissioner may do so and charge and collect from that licensee an amount not exceeding the department’s expenses, including, but not limited to, the average hourly cost of each examiner engaged in the examination and compensation of employees. The commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction.

(c) Whenever in the judgment of the commissioner it is necessary or expedient for any examiner engaged in any examination to travel within or outside this state, the commissioner may charge for the travel expenses of the examiner.

SEC. 3. Section 17207 of the Financial Code is amended to read:

17207. The commissioner shall charge and collect the following fees and assessments:

(a) For filing an application for an escrow agent’s license, six hundred twenty-five dollars ($625) for the first office or location and four hundred twenty-five dollars ($425) for each additional office or location.
(b) For filing an application for a duplicate of an escrow agent’s license lost, stolen, or destroyed, or for replacement, upon a satisfactory showing of the loss, theft, destruction, or surrender of certificate for replacement, two dollars ($2).

(c) For investigation services in connection with each application, one hundred dollars ($100), and for investigation services in connection with each additional office application, one hundred dollars ($100).

(d) For holding a hearing in connection with the application, as set forth under Section 17209.2, the actual costs experienced in each particular instance.

(e) (1) Each escrow agent shall pay to the commissioner for the support of this division for the ensuing year an annual license fee not to exceed two thousand eight hundred dollars ($2,800) for each office or location.

(e) (1) Each licensee under this division shall pay to the commissioner its pro rata share of all costs and expenses in an amount sufficient, in the commissioner’s judgment, to meet the expenses of the department in administering the law for the next year that shall include, but not be limited to, the cost of inspection and examination pursuant to Section 17405.1, and the provision of a reasonable reserve for contingencies, with a consideration of any deficit or less any surplus actually incurred in the prior fiscal year. The assessment shall be determined by a pro rata share of the proportion which a licensee’s gross income bears to the aggregate gross income of all licensees, as shown by the annual financial statements to the commissioner, for the costs and expenses remaining after assessing up to five thousand dollars ($5,000) per main office and up to three thousand five hundred dollars ($3,500) for each branch location.

(2) On or before May 31 in each year, the commissioner shall notify each escrow agent by mail of the amount of the annual license fee levied against it, and that the payment of the invoice is payable by the escrow agent within 30 days after receipt of notification by the commissioner.

(3) If payment is not made within 30 days, the commissioner may assess and collect a penalty, in addition to the annual license fee, of 10 percent of the fee for each month or part of a month that the payment is delayed or withheld.
(4) If an escrow agent fails to pay the amount due on or before the June 30 following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the company.

(5) If, after an order is made pursuant to paragraph (4), a request for a hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a company shall not conduct business pursuant to this division, except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(f) Fifty dollars ($50) for investigation services in connection with each application for qualification of any person under Section 17200.8, other than investigation services under subdivision (c) of this section.

(g) A fee not to exceed twenty-five dollars ($25) for the filing of a notice or report required by rules adopted pursuant to subdivision (a) or Section 17203.1.

(h) (1) If costs and expenses associated with the enforcement of this division, including overhead, are or will be incurred by the commissioner during the year for which the annual license fee is levied, and that will or could result in the commissioner’s incurring of costs and expenses, including overhead, in excess of the costs and expenses, including overhead, budgeted for expenditure for the year in which the annual license fee is levied, then the commissioner may levy a special assessment on each escrow agent for each office or location in an amount estimated to pay for the actual costs and expenses associated with the enforcement of this division, including overhead, in an amount not to exceed one thousand dollars ($1,000) for each office or location. The commissioner shall notify each escrow agent by mail of the amount of the special assessment levied against it, and that payment of the special assessment is payable by the escrow agent within 60 days of receipt of notification by the commissioner. The funds received from the special assessment shall be deposited into the State Corporations Fund and shall be used only for the purposes for which the special assessment is made.
(2) If payment is not made within 60 days, the commissioner may assess and collect a penalty, in addition to the special assessment, of 10 percent of the special assessment for each month or part of a month that the payment is delayed or withheld. If an escrow agent fails to pay the special assessment on or before 60 days following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the company. If an order is made under this subdivision, the provisions of paragraph (5) of subdivision (c) shall apply.

(3) If the amount collected pursuant to this subdivision exceeds the actual costs and expenses, including overhead, incurred in the administration and enforcement of this division and any deficit incurred, the excess shall be credited to each escrow agent on a pro rata basis.

SEC. 4. Section 17405.1 of the Financial Code is amended to read:

17405.1. (a) The cost of every routine inspection and examination of a licensee or other person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of an inspection or examination, the commissioner may use the estimated average hourly cost for all persons performing inspections or examinations of licensees or other persons subject to this division for the fiscal year included in the annual assessment pursuant to Section 17207. The cost of a routine inspection or examination shall be determined by the expenses deemed necessary by the department to carry out its duties, including, but not limited to, the estimated cost for all persons performing inspections and examinations for the fiscal year.

(b) Whenever in the judgment of the commissioner it is necessary or advisable to conduct a nonroutine inspection, including an indoctrination or preliminary examination in subdivision (d) of Section 17405, or conduct an examination of, or to devote any extraordinary attention to, any licensee, the commissioner may do so and charge and collect from the licensee an amount not exceeding the department’s expenses, including, but not limited to, the average hourly cost for each examiner engaged in the
examination and compensation of employees. The commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction.

(c) Whenever in the judgment of the commissioner it is necessary or expedient for any examiner engaged in any examination to travel within or outside this state, the commissioner may charge for the travel expenses of the examiner.

(d) For the purposes of this section only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

SEC. 5. Section 22107 of the Financial Code is amended to read:

22107. (a) Each finance lender and broker licensee shall pay to the commissioner its pro rata share of all costs and expenses, including the costs and expenses associated with the licensing of mortgage loan originators it employs, reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion that a licensee’s gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner, for the costs and expenses remaining after the amount assessed pursuant to subdivision (c). A licensee under this division shall pay to the commissioner its pro rata share of all costs and expenses in an amount sufficient, in the commissioner’s judgment, to meet the expenses of the department in administering the law for the next year that shall include, but not be limited to, the costs of examination pursuant to Section 22707, and the provision of a reasonable reserve for contingencies, with a consideration of any deficit or less any surplus actually incurred in the prior fiscal year. The pro rata share shall be determined by the proportion which a licensee’s gross income bears to the aggregate gross income of all licensees, as shown by the annual
financial reports to the commissioner, for the costs and expenses remaining after the amount assessed pursuant to subdivision (c).

(b) On or before the 30th 31st day of September May in each year, the commissioner shall notify each licensee of the amount assessed and levied against it and that amount shall be paid by October 31, within 30 days thereafter. If payment is not made by October 31, within 30 days, the commissioner shall assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c) In the levying and collection of the assessment, a licensee shall neither be assessed for nor be permitted to pay less than two hundred fifty dollars ($250) eight hundred dollars ($800) per licensed location per year.

(d) If a licensee fails to pay the assessment on or before the 31st day of October, 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a finance lender or broker licensee and any mortgage loan originator licensee employed by the finance lender or broker shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(e) The commissioner shall, by rule, establish the timelines, fees, and assessments applicable to applicants for original mortgage loan originator licenses, license renewals, and license changes under this division.

(f) Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require licensees to pay assessments through the Nationwide Mortgage Licensing System and Registry.

SEC. 6. Section 22707 of the Financial Code is amended to read:

22707. (a) The cost of each a routine examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the
commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year included in the annual assessment pursuant to Section 22107. The cost of a routine examination shall be determined by the expenses deemed necessary by the department to carry out its duties, including, but not limited to, the estimated cost for all persons performing examinations for the fiscal year.

(b) For the purpose of this section only, no person other than a licensee shall be deemed to be a person subject to this division until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

(c) Whenever in the judgment of the commissioner it is necessary or advisable to conduct a nonroutine examination of, or to devote any extraordinary attention to, any licensee, the commissioner may do so and charge and collect from the licensee an amount not exceeding the department's expenses, including, but not limited to, the estimated average hourly cost for all persons performing the examinations and compensation of employees. The commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction.

(d) Whenever in the judgment of the commissioner it is necessary or expedient for any examiner engaged in any examination to travel within or outside this state, the commissioner may charge for the travel expenses of the examiner.

SEC. 7. Section 23016 of the Financial Code is amended to read:

23016. (a) Each licensee shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The assessment will be based on the number of locations under this division shall pay the commissioner its pro rata share of all costs and expenses in an amount sufficient, in the
commissioner's judgment, to meet the expenses of the department in administering the law for the next year that shall include, but not be limited to, the cost of examination pursuant to Section 23046, and the provision of a reasonable reserve for contingencies, with a consideration of any deficit or less any surplus actually incurred in the prior fiscal year.

(b) On or before the 20th 30th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 30 days thereafter. If payment is not made within 30 days, the commissioner may assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

SEC. 8. Section 23046 of the Financial Code is amended to read:

23046. (a) For the purpose of discovering violations of this division or securing information required by the commissioner in the administration and enforcement of this division, the commissioner may at any time, but not less than once every two years, investigate the business of deferred deposits, and examine the books, accounts, records, and files used in the business of deferred deposit transactions, of every person engaged in the business of deferred deposit transactions, whether the person acts or claims to act as a principal or an agent, or under or without the authority of this division. For the purpose of examination, the commissioner and the commissioner’s representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.
(b) The cost of each a routine examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year included in the annual assessment pursuant to Section 23016. The cost of a routine inspection or examination shall be determined by the expenses deemed necessary by the department to carry out its duties, including, but not limited to, the estimated cost for all persons performing inspections and examinations for the fiscal year.

(c) Whenever in the judgment of the commissioner it is necessary or advisable to conduct a nonroutine examination of, or to devote any extraordinary attention to, any licensee, the commissioner may do so and charge and collect from the licensee an amount not exceeding the department’s expenses, including, but not limited to, the estimated average hourly cost for all persons performing the examinations and compensation of employees. The commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction.

(d) Whenever in the judgment of the commissioner it is necessary or expedient for any examiner engaged in any examination to travel within or outside this state, the commissioner may charge for the travel expenses of the examiner.

SEC. 9. Section 50302 of the Financial Code is amended to read:

50302. (a) As often as the commissioner deems necessary and appropriate, but at least once every 48 months, the commissioner shall examine the affairs of each residential mortgage lender and servicer licensee for compliance with this division. The commissioner shall appoint suitable persons to perform the examination. The commissioner and his or her appointees may examine the books, records, and documents of the licensee, and may examine the licensee’s officers, directors, employees, or agents under oath regarding the licensee’s operations. The commissioner may cooperate with any agency of the state or federal government, other states, agencies, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. The
commissioner may accept an examination conducted by one of
these entities in place of an examination by the commissioner
under this law, unless the commissioner determines that the
examination does not provide information necessary to enable the
commissioner to fulfill his or her responsibilities under this
division.

(b) The commissioner shall provide a written statement of the
findings of the examination, issue a copy of that statement to each
licensee’s principals, officers, or directors, and take appropriate
steps to ensure correction of any violations of this division.

(c) Affiliates of a licensee are subject to examination by the
commissioner on the same terms as the licensee, but only when
reports from, or examination of, a licensee provides documented
evidence of unlawful activity between a licensee and affiliate
benefiting, affecting, or arising from the activities regulated by
this division.

(d) The residential mortgage lender or servicer licensee shall
pay, and the commissioner shall assess, in the annual assessment,
the reasonable expenses cost of any examination of the licensee
and affiliates, consistent with the requirements of subdivision (c)
of Section 50314.

(e) The statement of the findings of an examination shall belong
to the commissioner and shall not be disclosed to anyone other
than the licensee, law enforcement officials, or other state or federal
regulatory agencies for further investigation and enforcement.

Sec. 10. Section 50314 of the Financial Code is amended to
read:

50314. (a) Every person subject to this division shall keep
documents and records that will properly enable the commissioner
to determine whether the residential mortgage lending or residential
mortgage loan servicing functions performed by that person comply
with the provisions of this division and with all rules and orders
made by the commissioner under this division. Upon request of
the commissioner, residential mortgage lenders and residential
mortgage loan servicers shall file an authorization for disclosure
to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

(b) The business documents and records of every residential mortgage lender or residential mortgage loan servicer, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice. The provisions of this subdivision shall not apply to persons specified in subdivision (g) of Section 50003.

Any person subject to this division shall, upon request and within the time specified in the request, allow inspection and copying of any documents and records by the commissioner or his or her authorized representative.

(c) The cost of every a routine inspection and examination of a licensee or other person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of any inspection or examination, the commissioner may use the estimated average hourly cost, including overhead, for all persons performing inspections or examinations of licensees or other persons subject to this division for the fiscal year, included in the annual assessment pursuant to Section 50401. The cost of a routine inspection or examination shall be determined by the expenses deemed necessary by the department to carry out its duties, including, but not limited to, the estimated cost for all persons performing inspections and examinations.

For the purpose of this subdivision only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or by a judicial hearing in any court of competent jurisdiction.

(d) Investigation and examination reports prepared by the commissioner’s duly designated representatives are not public reports. Those reports may be disclosed to the officers or directors of a licensee that is the subject of the report for the purpose of corrective action by the officers or directors. Such a disclosure shall not operate as a waiver of the exemption specified in subdivision (d) of Section 6254 of the Government Code.
(e) Whenever in the judgment of the commissioner it is necessary or advisable to conduct a nonroutine examination of, or to devote any extraordinary attention to, any licensee, the commissioner may do so and charge and collect from the licensee an amount not exceeding the department’s expenses, including, but not limited to, the estimated average hourly cost for all persons performing the examinations and compensation of employees. The commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction.

(f) Whenever in the judgment of the commissioner it is necessary or expedient for any examiner engaged in any examination to travel within or outside this state, the commissioner may charge for the travel expenses of the examiner.

SEC. 11. Section 50401 of the Financial Code is amended to read:

50401. (a) In addition to other fees and reimbursements required to be paid under this division, each residential mortgage lender or servicer licensee shall pay to the commissioner an amount equal to the lesser of: (1) its pro rata share of all costs and expenses (including overhead and the maintenance of a prudent reserve not to exceed 90 days’ costs and expenses) that the commissioner reasonably expects to incur in the current fiscal year in the administration of this division and not otherwise recovered by the commissioner under this division or from the State Corporations Fund, plus a deficit or less a surplus actually incurred during the prior fiscal year; or (2) five thousand dollars ($5,000). The pro rata share shall be the greater of either one thousand dollars ($1,000) or the sum of: (A) a number derived from the ratio of the aggregate principal amount of the mortgage loans secured by residential real property originated by the licensee to all mortgage loans secured by residential real property originated by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the current fiscal year; plus (B) a number derived from the ratio of the average value of mortgage loans secured by residential real property serviced by a licensee to the average value of all mortgage loans secured by residential real property serviced by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the
costs and expenses estimated by the commissioner for the current fiscal year. For the purposes of this section, the “principal amount” of a mortgage loan means the initial total amount a borrower is obligated to repay the lender and the “average value” of loans serviced means the sum of the aggregate dollar value of all mortgage loans secured by residential real property serviced by a licensee, calculated as of the last day of each month in the calendar year just ended, divided by 12. Licensee shall pay to the commissioner a pro rata share of all costs and expenses in an amount sufficient, in the commissioner’s judgment, to meet the expenses of the department in administering the law for the next year that shall include, but not be limited to, the cost of examination pursuant to Sections 50302 and 50314, and the provision of a reasonable reserve for contingencies, as provided in subdivision (b).

(b) Each licensee under this division shall pay to the commissioner its pro rata share of all costs and expenses deemed necessary by the department to carry out its duties and maintain a reasonable reserve for contingencies for the next fiscal year, considering any deficit or less any surplus actually incurred in the prior fiscal year, or fifteen thousand dollars ($15,000). The pro rata share shall be the greater of either two thousand five hundred dollars ($2,500) or the sum of: (1) a number derived from the ratio of the aggregate principal amount of the mortgage loans secured by residential real property originated by the licensee to all mortgage loans secured by residential real property originated by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the next fiscal year; plus (2) a number derived from the ratio of the average value of mortgage loans secured by residential real property serviced by a licensee to the average value of all mortgage loans secured by residential real property serviced by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the next fiscal year. For the purposes of this section, the “principal amount” of a mortgage loan means the initial total amount a borrower is obligated to repay the lender and the “average value” of loans serviced means the sum of the
aggregate dollar value of all mortgage loans secured by residential real property serviced by a licensee, calculated as of the last day of each month in the calendar year just ended, divided by 12.

In order for the commissioner to calculate the assessment under this section, each licensee shall file an annual report for the calendar year just ended containing the information required by the commissioner on or before March 1 of the year in which the assessment is to be calculated.

In determining the amount assessed, the commissioner shall consider all appropriations from the State Corporations Fund for the support of this division and all reimbursements provided for under this division.

(c) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this division, and the maintenance of a prudent reserve not to exceed 90 days’ costs and expenses.

(d) On or before the 30th day of September in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 20 days. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(e) If a licensee fails to pay the assessment on or before the 30th day following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the license issued to the licensee. An order issued under this section is not stayed by the filing of a request for a hearing. If, after an order is made, the request for hearing is filed in writing within 15 days from the date of service of the order and a hearing is not held within 60 days of the filing, the order is deemed rescinded as of its effective date. During a period when its license is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by further order of the commissioner. However, the revocation, suspension, or surrender
of a license shall not affect the powers of the commissioner as provided in this division.