

ASSEMBLY BILL

No. 1545

Introduced by Assembly Member Irwin

August 20, 2015

An act to amend Sections 100, 101, 7000.5, 7011, 7015, 8520, 8522, 10004, 10005, 10050, 11301, 11302, 11310, 11313, 19404, 23050, and 23075 of, and to repeal and add Section 8520.2 of, the Business and Professions Code, to amend Sections 300 and 50003 of, to add Sections 17002.1 and 22005.5 to, and to add Chapter 11 (commencing with Section 900) to Division 1 of, the Financial Code, to amend Sections 8870.1, 8870.2, 11546.1, 11550, 12800, 12804, 12804.5, 12855, 12856, 12895, 12901, and 12944 of, and to add Section 12815 to, the Government Code, to amend Sections 50400, 50407.5, 50901, and 50913 of the Health and Safety Code, and to amend Section 12640.02 of, and to add Section 12340.12 to, the Insurance Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as introduced, Irwin. State of California Housing Agency Act.

(1) Existing law establishes various agencies within the executive branch of state government, including the Business, Consumer Services, and Housing Agency. Under existing law, the Business, Consumer Services, and Housing Agency is comprised of the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety

Commission. Existing law establishes, within the Department of Housing and Community Development, the California Housing Finance Agency which is administered by a board of 13 voting members, including the Secretary of Business, Consumer Services, and Housing. Under existing law, the Department of Consumer Affairs includes, among other entities, the Contractors' State License Board, the Bureau of Real Estate, and the Structural Pest Control Board.

This bill would establish in state government the Housing Agency, comprised of the Department of Housing and Community Development; the Bureau of Real Estate, which this bill would redesignate as the Department of Real Estate; the Contractors' State License Board; the Structural Pest Control Board; and the Department of Real Estate Finance, which this bill would also establish. The bill would redesignate the Business, Consumer Services, and Housing Agency as the Business and Consumer Services Agency, transfer certain duties of that agency to the Housing Agency, and make other conforming changes.

(2) Existing law establishes in state government the Bureau of Real Estate, headed by a Real Estate Commissioner appointed by the Governor. Existing law requires the Real Estate Commissioner to enforce, among other laws, the Real Estate Law, which provides for the licensure of real estate brokers and salespersons.

This bill would establish the Department of Real Estate Finance, headed by a Director of Real Estate Finance appointed by the Governor. The bill would require the director to execute the Real Estate Appraiser's Licensing and Certification Law, the Escrow Law, provisions of the California Finance Lenders Law as they pertain to mortgage loan origination services and housing purchase and refinance lending activities, the California Residential Mortgage Lending Act, specified provisions pertaining to title and mortgage insurance, and laws regulating business activities as those laws pertain to the activities of home warranty companies. The bill would make various conforming changes to these laws.

(3) This bill would provide that its provisions shall be known, and may be cited, as the State of California Housing Agency Act. The bill would make various findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. (a) This act shall be known, and may be cited,
2 as the State of California Housing Agency Act.

3 (b) The Legislature finds and declares that the housing market
4 plays a critical role in the California economy, and further finds
5 and declares all of the following:

6 (1) The need for housing is the highest priority for all
7 Californians.

8 (2) Adequate, stable, and accessible housing is a crucial
9 component of life for all Californians.

10 (3) The expenditure for housing is one of the most significant
11 financial commitments Californians undertake in their day-to-day
12 lives.

13 (4) Housing and housing-related activities are of primary
14 importance to the people of the state that they warrant the clear
15 and unified focus of state government.

16 (c) It is the intent of the Legislature to establish the position of
17 Secretary of Housing within state government to oversee all
18 activities related to housing in the state. In creating this position,
19 it is the intent of the Legislature to provide that all professional
20 entities that play a role in the housing market be authorized to be
21 incorporated into, or report to, this agency in order to have a more
22 clear and unified approach to meet the housing needs of all
23 Californians.

24 SEC. 2. Section 100 of the Business and Professions Code is
25 amended to read:

26 100. There is in the state government, in the ~~Business,~~
27 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
28 Agency, a Department of Consumer Affairs.

29 SEC. 3. Section 101 of the Business and Professions Code is
30 amended to read:

31 101. The department is comprised of the following:

- 32 (a) The Dental Board of California.
- 33 (b) The Medical Board of California.
- 34 (c) The State Board of Optometry.
- 35 (d) The California State Board of Pharmacy.
- 36 (e) The Veterinary Medical Board.
- 37 (f) The California Board of Accountancy.
- 38 (g) The California Architects Board.

- 1 (h) The Bureau of Barbering and Cosmetology.
- 2 (i) The Board for Professional Engineers and Land Surveyors.
- 3 ~~(j) The Contractors' State License Board.~~
- 4 ~~(k)~~
- 5 (j) The Bureau for Private Postsecondary Education.
- 6 ~~(l)~~
- 7 (k) The Bureau of Electronic and Appliance Repair, Home
- 8 Furnishings, and Thermal Insulation.
- 9 ~~(m)~~
- 10 (l) The Board of Registered Nursing.
- 11 ~~(n)~~
- 12 (m) The Board of Behavioral Sciences.
- 13 ~~(o)~~
- 14 (n) The State Athletic Commission.
- 15 ~~(p)~~
- 16 (o) The Cemetery and Funeral Bureau.
- 17 ~~(q)~~
- 18 (p) The State Board of Guide Dogs for the Blind.
- 19 ~~(r)~~
- 20 (q) The Bureau of Security and Investigative Services.
- 21 ~~(s)~~
- 22 (r) The Court Reporters Board of California.
- 23 ~~(t)~~
- 24 (s) The Board of Vocational Nursing and Psychiatric
- 25 Technicians.
- 26 ~~(u)~~
- 27 (t) The Landscape Architects Technical Committee.
- 28 ~~(v)~~
- 29 (u) The Division of Investigation.
- 30 ~~(w)~~
- 31 (v) The Bureau of Automotive Repair.
- 32 ~~(x)~~
- 33 (w) The Respiratory Care Board of California.
- 34 ~~(y)~~
- 35 (x) The Acupuncture Board.
- 36 ~~(z)~~
- 37 (y) The Board of Psychology.
- 38 ~~(aa)~~
- 39 (z) The California Board of Podiatric Medicine.
- 40 ~~(ab)~~

- 1 (aa) The Physical Therapy Board of California.
- 2 ~~(ae)~~
- 3 (ab) The Arbitration Review Program.
- 4 ~~(ad)~~
- 5 (ac) The Physician Assistant Committee.
- 6 ~~(ae)~~
- 7 (ad) The Speech-Language Pathology and Audiology Board.
- 8 ~~(af)~~
- 9 (ae) The California Board of Occupational Therapy.
- 10 ~~(ag)~~
- 11 (af) The Osteopathic Medical Board of California.
- 12 ~~(ah)~~
- 13 (ag) The Naturopathic Medicine Committee.
- 14 ~~(ai)~~
- 15 (ah) The Dental Hygiene Committee of California.
- 16 ~~(aj)~~
- 17 (ai) The Professional Fiduciaries Bureau.
- 18 ~~(ak)~~
- 19 (aj) The State Board of Chiropractic Examiners.
- 20 ~~(al) The Bureau of Real Estate.~~
- 21 ~~(am) The Bureau of Real Estate Appraisers.~~
- 22 ~~(an) The Structural Pest Control Board.~~
- 23 ~~(ao)~~
- 24 (ak) Any other boards, offices, or officers subject to its
- 25 jurisdiction by law.
- 26 SEC. 4. Section 7000.5 of the Business and Professions Code
- 27 is amended to read:
- 28 7000.5. (a) There is in the ~~Department of Consumer Affairs~~
- 29 *Housing Agency* a Contractors' State License Board, which consists
- 30 of 15 members.
- 31 (b) Notwithstanding any other provision of law, the repeal of
- 32 this section renders the board subject to review by the appropriate
- 33 policy committees of the Legislature.
- 34 (c) This section shall remain in effect only until January 1, 2016,
- 35 and as of that date is repealed, unless a later enacted statute, that
- 36 is enacted before January 1, 2016, deletes or extends that date.
- 37 SEC. 5. Section 7011 of the Business and Professions Code is
- 38 amended to read:

1 7011. (a) The board, by and with the approval of the ~~director,~~
 2 *Secretary of Housing*, shall appoint a registrar of contractors and
 3 fix his or her compensation.

4 (b) The registrar shall be the executive officer and secretary of
 5 the board and shall carry out all of the administrative duties as
 6 provided in this chapter and as delegated to him or her by the
 7 board.

8 (c) For the purpose of administration of this chapter, there may
 9 be appointed a deputy registrar, a chief reviewing and hearing
 10 officer, and, subject to Section 159.5, other assistants and
 11 subordinates as may be necessary.

12 (d) Appointments shall be made in accordance with the
 13 provisions of civil service laws.

14 (e) This section shall remain in effect only until January 1, 2016,
 15 and as of that date is repealed, unless a later enacted statute, that
 16 is enacted before January 1, 2016, deletes or extends that date.

17 SEC. 6. Section 7015 of the Business and Professions Code is
 18 amended to read:

19 7015. The board shall adopt a seal for its own use. The seal
 20 shall have the words “Contractors’ State License Board, State of
 21 California, ~~Department of Consumer Affairs,~~ *Housing Agency,*”
 22 and the care and custody thereof shall be in the hands of the
 23 registrar.

24 SEC. 7. Section 8520 of the Business and Professions Code is
 25 amended to read:

26 8520. (a) There is in the ~~Department of Consumer Affairs~~
 27 *Housing Agency* a Structural Pest Control Board, which consists
 28 of seven members.

29 (b) Subject to the jurisdiction conferred upon the director by
 30 Division 1 (commencing with Section 100), the board is vested
 31 with the power to and shall administer the provisions of this
 32 chapter.

33 (c) It is the intent of the Legislature that consumer protection
 34 is the primary mission of the board.

35 (d) This section shall remain in effect only until January 1, 2019,
 36 and as of that date is repealed, unless a later enacted statute, that
 37 is enacted before January 1, 2019, deletes or extends that date.
 38 Notwithstanding any other law, the repeal of this section renders
 39 the board subject to review by the appropriate policy committees
 40 of the Legislature.

1 SEC. 8. Section 8520.2 of the Business and Professions Code
2 is repealed.

3 ~~8520.2. (a) The Structural Pest Control Board is hereby~~
4 ~~transferred from the jurisdiction of the Department of Pesticide~~
5 ~~Regulation and placed under the jurisdiction of the Department of~~
6 ~~Consumer Affairs.~~

7 ~~(b) The registrar of the board under the jurisdiction of the~~
8 ~~Department of Pesticide Regulation shall remain as the registrar~~
9 ~~of the board under the jurisdiction of the Department of Consumer~~
10 ~~Affairs.~~

11 ~~(c) The members appointed to the board while under the~~
12 ~~jurisdiction of the Department of Pesticide Regulation shall remain~~
13 ~~as members of the board under the jurisdiction of the Department~~
14 ~~of Consumer Affairs.~~

15 ~~(d) All employees of the board under the jurisdiction of the~~
16 ~~Department of Pesticide Regulation are hereby transferred to the~~
17 ~~board under the jurisdiction of the Department of Consumer~~
18 ~~Affairs.~~

19 ~~(e) The duties, powers, purposes, responsibilities, and~~
20 ~~jurisdictions of the board under the jurisdiction of the Department~~
21 ~~of Pesticide Regulation shall remain with the board under the~~
22 ~~jurisdiction of the Department of Consumer Affairs.~~

23 ~~(f) For the performance of the duties and the exercise of the~~
24 ~~powers vested in the board under this chapter, the board shall have~~
25 ~~possession and control of all records, papers, offices, equipment,~~
26 ~~supplies, or other property, real or personal, held for the benefit~~
27 ~~or use by the board formerly within the jurisdiction of the~~
28 ~~Department of Pesticide Regulation.~~

29 ~~(g) Any reference to the board in this chapter or in any other~~
30 ~~provision of law or regulation shall be construed as a reference to~~
31 ~~the board under the jurisdiction of the Department of Consumer~~
32 ~~Affairs.~~

33 SEC. 9. Section 8520.2 is added to the Business and Professions
34 Code, to read:

35 8520.2. (a) The Structural Pest Control Board is hereby
36 transferred from the jurisdiction of the Department of Consumer
37 Affairs and placed under the jurisdiction of the Housing Agency.

38 (b) The registrar of the board and the members appointed to the
39 board under the jurisdiction of the Department of Consumer Affairs

1 shall remain as the registrar and members of the board under the
2 jurisdiction under the Housing Agency.

3 (c) All employees of the board under the jurisdiction of the
4 Department of Consumer Affairs are hereby transferred to the
5 board under the jurisdiction of the Housing Agency.

6 (d) The duties, powers, purposes, responsibilities, and
7 jurisdictions of the board under the jurisdiction of the Department
8 of Consumer Affairs shall remain with the board under the
9 jurisdiction of the Housing Agency.

10 (e) For the performance of the duties and exercise of the powers
11 vested in the board under this chapter, the board shall have
12 possession and control of all records, papers, offices, equipment,
13 supplies, or other property, real or personal, held for the benefit
14 or use by the board formerly within the jurisdiction of the
15 Department of Consumer Affairs.

16 (f) Any reference to the board in this chapter or in any other
17 law or regulation shall be construed as a reference to the board
18 under the jurisdiction of the Housing Agency.

19 SEC. 10. Section 8522 of the Business and Professions Code
20 is amended to read:

21 8522. (a) Members of the board shall be appointed for a term
22 of four years, subject to removal by the appointing power at his
23 or her pleasure.

24 (b) Vacancies shall be filled by the appointing power for the
25 unexpired term.

26 (c) Each member shall hold office until the appointment of his
27 or her successor not to exceed one year from the expiration of the
28 term for which he or she was appointed. No person shall serve as
29 a member of the board for more than two consecutive terms.

30 (d) Each appointment shall be for a four-year term expiring four
31 years after either the date of the appointment or the date a previous
32 term expired.

33 (e) From the nominations received pursuant to subdivision (f),
34 the Governor shall appoint two of the public members and the
35 three licensed members qualified as provided in Section 8521. The
36 Senate Committee on Rules and the Speaker of the Assembly shall
37 each appoint a public member, and their initial appointment shall
38 be made to fill, respectively, the first and second public member
39 vacancies that occur on or after January 1, 1983.

1 (f) (1) At least 60 days prior to the appointment by the Governor
2 of a public member or licensed member to the board, the director
3 shall solicit nominations to the board from interested parties by
4 mailing them a notice and by posting a notice on the ~~department's~~
5 *Housing Agency's* Internet Web site. Interested parties include,
6 but are not limited to, members or representatives from the
7 structural pest control industry and organizations representing
8 consumer, environmental, and real estate interests.

9 (2) All nominations shall be made in writing and shall include
10 (A) the name and address of each nominee, (B) if an operator, his
11 or her license number, and (C) the name, address, and affiliation,
12 if any, of the nominator.

13 (3) The nominations shall be mailed to the director and shall be
14 made available to the Governor and the director.

15 SEC. 11. Section 10004 of the Business and Professions Code
16 is amended to read:

17 10004. ~~“Bureau”~~ *“Department”* means the ~~Bureau~~ *Department*
18 of Real Estate in the ~~Department of Consumer Affairs~~. *Housing*
19 *Agency*.

20 SEC. 12. Section 10005 of the Business and Professions Code
21 is amended to read:

22 10005. Whenever the terms “bureau,” “division,” “department,”
23 ~~“Department of Real Estate,”~~ *“State Bureau of Real Estate,”*
24 *“State Real Estate Division,”* or ~~“Real~~ *“Real Estate Division”* are
25 used in this division, they mean the ~~Bureau~~ *Department* of Real
26 Estate.

27 Whenever the terms ~~“Department of Real Estate,”~~ *“Bureau of*
28 *Real Estate,”* “State Real Estate Division,” or “Real Estate
29 Division” are used in any other law, they mean the ~~Bureau~~
30 *Department* of Real Estate.

31 SEC. 13. Section 10050 of the Business and Professions Code
32 is amended to read:

33 10050. (a) There is in the ~~Department of Consumer Affairs~~
34 *Housing Agency* a ~~Bureau~~ *Department* of Real Estate, the chief
35 officer of which ~~bureau~~ *department* is named the Real Estate
36 Commissioner.

37 (b) It shall be the principal responsibility of the commissioner
38 to enforce all laws in this part (commencing with Section 10000)
39 and Chapter 1 (commencing with Section 11000) of Part 2 of this
40 division in a manner that achieves the maximum protection for the

1 purchasers of real property and those persons dealing with real
2 estate licensees.

3 (c) Wherever the term “commissioner” is used in this division,
4 it means the Real Estate Commissioner.

5 SEC. 14. Section 11301 of the Business and Professions Code
6 is amended to read:

7 11301. (a) There is hereby created within the Department of
8 ~~Consumer Affairs~~ *Real Estate Finance* a Bureau of Real Estate
9 Appraisers to administer and enforce this part.

10 (b) Whenever the term “Office of Real Estate Appraisers”
11 appears in any other law, it means the “Bureau of Real Estate
12 Appraisers.”

13 SEC. 15. Section 11302 of the Business and Professions Code
14 is amended to read:

15 11302. For the purpose of applying this part, the following
16 terms, unless otherwise expressly indicated, shall mean and have
17 the following definitions:

18 (a) “Department” means the Department of ~~Consumer Affairs~~.
19 *Real Estate Finance*.

20 (b) “Appraisal” means a written statement independently and
21 impartially prepared by a qualified appraiser setting forth an
22 opinion in a federally related transaction as to the market value of
23 an adequately described property as of a specific date, supported
24 by the presentation and analysis of relevant market information.

25 The term “appraisal” does not include an opinion given by a real
26 estate licensee or engineer or land surveyor in the ordinary course
27 of his or her business in connection with a function for which a
28 license is required under Chapter 7 (commencing with Section
29 6700) or Chapter 15 (commencing with Section 8700) of Division
30 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
31 (commencing with Section 10500) and the opinion shall not be
32 referred to as an appraisal. This part does not apply to a probate
33 referee acting pursuant to Sections 400 to 408, inclusive, of the
34 Probate Code unless the appraised transaction is federally related.

35 (c) “Appraisal Foundation” means the Appraisal Foundation
36 that was incorporated as an Illinois not-for-profit corporation on
37 November 30, 1987.

38 (d) (1) “Appraisal management company” means any person
39 or entity that satisfies all of the following conditions:

1 (A) Maintains an approved list or lists, containing 11 or more
2 independent contractor appraisers licensed or certified pursuant
3 to this part, or employs 11 or more appraisers licensed or certified
4 pursuant to this part.

5 (B) Receives requests for appraisals from one or more clients.

6 (C) For a fee paid by one or more of its clients, delegates
7 appraisal assignments for completion by its independent contractor
8 or employee appraisers.

9 (2) “Appraisal management company” does not include any of
10 the following, when that person or entity directly contracts with
11 an independent appraiser:

12 (A) Any bank, credit union, trust company, savings and loan
13 association, or industrial loan company doing business under the
14 authority of, or in accordance with, a license, certificate, or charter
15 issued by the United States or any state, district, territory, or
16 commonwealth of the United States that is authorized to transact
17 business in this state.

18 (B) Any finance lender or finance broker licensed pursuant to
19 Division 9 (commencing with Section 22000) of the Financial
20 Code, when acting under the authority of that license.

21 (C) Any residential mortgage lender or residential mortgage
22 servicer licensed pursuant to Division 20 (commencing with
23 Section 50000) of the Financial Code, when acting under the
24 authority of that license.

25 (D) Any real estate broker licensed pursuant to Part 1
26 (commencing with Section 10000) of Division 4 of the Business
27 and Professions Code, when acting under the authority of that
28 license.

29 (3) “Appraisal management company” does not include any
30 person licensed to practice law in this state who is working with
31 or on behalf of a client of that person in connection with one or
32 more appraisals for that client.

33 (e) “Appraisal Subcommittee” means the Appraisal
34 Subcommittee of the Federal Financial Institutions Examination
35 Council.

36 (f) “Controlling person” means one or more of the following:

37 (1) An officer or director of an appraisal management company,
38 or an individual who holds a 10 percent or greater ownership
39 interest in an appraisal management company.

1 (2) An individual employed, appointed, or authorized by an
2 appraisal management company that has the authority to enter into
3 a contractual relationship with clients for the performance of
4 appraisal services and that has the authority to enter into
5 agreements with independent appraisers for the completion of
6 appraisals.

7 (3) An individual who possesses the power to direct or cause
8 the direction of the management or policies of an appraisal
9 management company.

10 (g) “Director” or “chief” means the Chief of the Bureau of Real
11 Estate Appraisers.

12 (h) “Federal financial institutions regulatory agency” means the
13 Federal Reserve Board, Federal Deposit Insurance Corporation,
14 Office of the Comptroller of the Currency, Federal Home Loan
15 Bank System, National Credit Union Administration, and any other
16 agency determined by the director to have jurisdiction over
17 transactions subject to this part.

18 (i) “Federally related real estate appraisal activity” means the
19 act or process of making or performing an appraisal on real estate
20 or real property in a federally related transaction and preparing an
21 appraisal as a result of that activity.

22 (j) “Federally related transaction” means any real estate-related
23 financial transaction which a federal financial institutions
24 regulatory agency engages in, contracts for or regulates and which
25 requires the services of a state licensed real estate appraiser
26 regulated by this part. This term also includes any transaction
27 identified as such by a federal financial institutions regulatory
28 agency.

29 (k) “License” means any license, certificate, permit, registration,
30 or other means issued by the bureau authorizing the person to
31 whom it is issued to act pursuant to this part within this state.

32 (l) “Licensure” means the procedures and requirements a person
33 shall comply with in order to qualify for issuance of a license and
34 includes the issuance of the license.

35 (m) “Office” or “bureau” means the Bureau of Real Estate
36 Appraisers.

37 (n) “Registration” means the procedures and requirements with
38 which a person or entity shall comply in order to qualify to conduct
39 business as an appraisal management company.

1 (o) “State licensed real estate appraiser” is a person who is
2 issued and holds a current valid license under this part.

3 (p) “Uniform Standards of Professional Appraisal Practice” are
4 the standards of professional appraisal practice established by the
5 Appraisal Foundation.

6 (q) “Course provider” means a person or entity that provides
7 educational courses related to professional appraisal practice.

8 SEC. 16. Section 11310 of the Business and Professions Code
9 is amended to read:

10 11310. The Governor shall appoint, subject to confirmation
11 by the Senate, the Chief of the Bureau of Real Estate Appraisers
12 who shall, in consultation with the Governor and the Director of
13 ~~Consumer Affairs~~, *Real Estate Finance*, administer the licensing
14 and certification program for real estate appraisers. In making the
15 appointment, consideration shall be given to the qualifications of
16 an individual that demonstrate knowledge of the real estate
17 appraisal profession.

18 (a) The chief shall serve at the pleasure of the Governor. The
19 salary for the chief shall be fixed and determined by the Director
20 of Consumer Affairs with approval of the Department of Human
21 Resources.

22 (b) The chief shall not be actively engaged in the appraisal
23 business or any other affected industry for the term of appointment,
24 and thereafter the chief shall be subject to Section 87406 of the
25 Government Code.

26 (c) The chief, in consultation with the Director of ~~Consumer~~
27 ~~Affairs~~ *Real Estate Finance*, and in accordance with the State Civil
28 Service Act, may appoint and fix the compensation of legal,
29 clerical, technical, investigation, and auditing personnel as may
30 be necessary to carry out this part. All personnel shall perform
31 their respective duties under the supervision and direction of the
32 chief.

33 (d) The chief may appoint not more than four deputies as he or
34 she deems appropriate. The deputies shall perform their respective
35 duties under the supervision and direction of the chief.

36 (e) Every power granted to or duty imposed upon the chief under
37 this part may be exercised or performed in the name of the chief
38 by the deputies, subject to conditions and limitations as the chief
39 may prescribe.

1 SEC. 17. Section 11313 of the Business and Professions Code
2 is amended to read:

3 11313. The bureau is under the supervision and control of the
4 Director of ~~Consumer Affairs~~. *Real Estate Finance*. The duty of
5 enforcing and administering this part is vested in the chief, and he
6 or she is responsible to the Director of ~~Consumer Affairs~~ *Real*
7 *Estate Finance* therefor. The chief shall adopt and enforce rules
8 and regulations as are determined reasonably necessary to carry
9 out the purposes of this part. Those rules and regulations shall be
10 adopted pursuant to Chapter 3.5 (commencing with Section 11340)
11 of Part 1 of Division 3 of Title 2 of the Government Code.
12 Regulations adopted by the former Director of the Office of Real
13 Estate Appraisers shall continue to apply to the bureau and its
14 licensees.

15 SEC. 18. Section 19404 of the Business and Professions Code
16 is amended to read:

17 19404. “Board” means the California Horse Racing Board
18 within the ~~Business, Consumer Services, and Housing~~ *Business*
19 *and Consumer Services* Agency.

20 SEC. 19. Section 23050 of the Business and Professions Code
21 is amended to read:

22 23050. There is in the state government, in the ~~Business,~~
23 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
24 Agency, a Department of Alcoholic Beverage Control. The
25 department shall be administered through a civil executive officer
26 who shall be known as the Director of Alcoholic Beverage Control.
27 The director shall be appointed and shall serve as provided in
28 Section 22 of Article XX of the Constitution and shall receive an
29 annual salary as provided for by Chapter 6 (*commencing with*
30 *Section 11550*) of Part 1 of Division 3 of Title 2 of the Government
31 Code.

32 SEC. 20. Section 23075 of the Business and Professions Code
33 is amended to read:

34 23075. There is in the state government, in the ~~Business,~~
35 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
36 Agency, an Alcoholic Beverage Control Appeals Board the
37 members of which shall be appointed and shall serve as provided
38 in Section 22 of Article XX of the Constitution, and shall receive
39 an annual salary as provided for by Chapter 6 (commencing with

1 Section 11550) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 SEC. 21. Section 300 of the Financial Code is amended to read:

4 300. (a) In this section:

5 (1) “Business and industrial development corporation” means
6 a corporation licensed under Division 15 (commencing with
7 Section 31000).

8 (2) “Payment instrument” has the same meaning as set forth in
9 Section 2003.

10 (3) “Stored Value” has the same meaning as set forth in
11 subdivision (v) of Section 2003.

12 (b) There is in the state government, in the ~~Business, Consumer~~
13 ~~Services, and Housing~~ *Business and Consumer Services Agency*,
14 a Department of Business Oversight, which has charge of the
15 execution of, among other laws, the laws of this state relating to
16 any of the following: (1) banks or trust companies or the banking
17 or trust business; (2) savings associations or the savings association
18 business; (3) credit unions or the credit union business; (4) persons
19 who engage in the business of receiving money for transmission
20 or such business; (5) issuers of stored value or such business; (6)
21 issuers of payment instruments or the payment instrument business;
22 (7) business and industrial development corporations or the
23 business and industrial development corporation business; (8)
24 insurance premium finance agencies or the insurance premium
25 finance business; (9) persons offering or making any contract
26 constituting bucketing; (10) persons offering or selling
27 off-exchange commodities; (11) deferred deposit originators; (12)
28 finance lenders and brokers; (13) residential mortgage lenders and
29 servicers; (14) capital access companies; (15) check sellers, bill
30 payers, and proraters; (16) securities issuers, broker-dealers, agents,
31 investment advisers, and investment adviser representatives; (17)
32 mortgage loan originators employed or supervised by finance
33 lenders or residential mortgage lenders; (18) escrow agents; (19)
34 franchisors; or (20) persons holding securities as custodians on
35 behalf of securities owners.

36 SEC. 22. Chapter 11 (commencing with Section 900) is added
37 to Division 1 of the Financial Code, to read:

CHAPTER 11. DEPARTMENT OF REAL ESTATE FINANCE

Article 1. General Provisions

900. For the purposes of this chapter, the following definitions shall apply:

- (a) "Director" means the Director of Real Estate Finance.
- (b) "Department" means the Department of Real Estate Finance.

901. There is in state government, in the Housing Agency, a Department of Real Estate Finance.

902. (a) The director shall have charge of the execution of, among other laws, the following laws of this state:

(1) The Real Estate Appraiser's Licensing and Certification Law (Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code).

(2) The Escrow Law (Division 6 (commencing with Section 17000)), as that law pertains to escrow activities affecting real estate transactions.

(3) The California Finance Lenders Law (Division 9 (commencing with Section 22000)), as that law pertains to mortgage loan origination services and housing purchase and refinance lending activities.

(4) The California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000)).

(5) Part 6 (commencing with Section 12340) of Division 2 of the Insurance Code, pertaining to title and mortgage insurance.

(b) In addition, the director shall have charge of the execution of laws regulating business activities as those laws pertain to the activities of home warranty companies.

903. (a) (1) The director may adopt rules and regulations necessary to carry out this chapter and the laws specified in Section 902 in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Any rule or regulation adopted by another agency implementing the provisions of the laws specified in Section 902 shall remain in effect until the director adopts new rules and regulations pursuant to this section.

(b) In any hearing required pursuant to the laws specified in Section 902, the director shall proceed as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of

1 Title 2 of the Government Code, and shall have all the powers
2 granted therein.

3

4

Article 2. Administration

5

6 910. (a) The chief officer of the department is the Director of
7 Real Estate Finance. The director shall be the head of the
8 department with the authority and responsibility over all officers,
9 employees, and activities in the department.

10 (b) The director shall be appointed by, and serve at the pleasure
11 of, the Governor.

12 (c) The director shall receive an annual salary as provided in
13 Chapter 6 (commencing with Section 11550) of Part 1 of Division
14 3 of Title 2 of the Government Code, to be paid monthly out of
15 the State Treasury upon a warrant of the Controller, and shall be
16 allowed his or her actual and necessary expenses in the discharge
17 of his or her duties.

18 911. The director shall have his or her principal office in the
19 same facility as the principal office of the Real Estate
20 Commissioner.

21 912. (a) (1) The director shall employ any deputies, clerks,
22 and employees as he or she may need to discharge in proper manner
23 the duties imposed upon him or her by law. Deputies, clerks, and
24 employees shall perform those duties that the director assigns to
25 them.

26 (2) Each deputy shall, after his or her appointment, take and
27 subscribe to the oath or affirmation of office prescribed in Section
28 3 of Article XX of the California Constitution, and file that oath
29 or affirmation in the office of the Secretary of State.

30 (b) Subject to the powers of the State Personnel Board and the
31 Director of Finance, the director shall fix the compensation of the
32 deputies, clerks, and employees of the department. Compensation
33 shall be paid monthly on a certificate of the director, and on the
34 warrant of the Controller out of the State Treasury.

35 913. The director shall adopt a seal with the words “Director
36 of Real Estate Finance, State of California” and any other device
37 as the director may desire, by which he or she shall authenticate
38 the proceedings of his or her office. Copies of all records and
39 papers in the office of the director certified under the hand and

1 seal of the director shall be received in evidence in all cases equally
2 and with the same effect as the originals.

3 914. The Attorney General shall render to the director opinions
4 upon all questions of law relating to the construction or
5 interpretation of this chapter or the laws specified in Section 902,
6 or arising in the administration thereof, that may be submitted to
7 him or her by the director. The Attorney General shall act as the
8 attorney for the director in all actions and proceedings brought by
9 or against him or her under or pursuant to any of the provisions of
10 this chapter or of the laws specified in Section 902.

11 SEC. 23. Section 17002.1 is added to the Financial Code, to
12 read:

13 17002.1. “Director” means the Director of Real Estate Finance.

14 SEC. 24. Section 22005.5 is added to the Financial Code, to
15 read:

16 22005.5. “Director” means the Director of Real Estate Finance.

17 SEC. 25. Section 50003 of the Financial Code is amended to
18 read:

19 50003. (a) “Annual audit” means a certified audit of the
20 licensee’s books, records, and systems of internal control performed
21 by an independent certified public accountant in accordance with
22 generally accepted accounting principles and generally accepted
23 auditing standards.

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

25 (c) “Buy” includes exchange, offer to buy, or solicitation to
26 buy.

27 (d) (1) “Commissioner” means the Commissioner of Business
28 Oversight.

29 (2) “*Director*” means the Director of Real Estate Finance.

30 (e) “Control” means the possession, directly or indirectly, of
31 the power to direct, or cause the direction of, the management and
32 policies of a licensee under this division, whether through voting
33 or through the ownership of voting power of an entity that
34 possesses voting power of the licensee, or otherwise. Control is
35 presumed to exist if a person, directly or indirectly, owns, controls,
36 or holds 10 percent or more of the voting power of a licensee or
37 of an entity that owns, controls, or holds, with power to vote, 10
38 percent or more of the voting power of a licensee. No person shall
39 be deemed to control a licensee solely by reason of his or her status
40 as an officer or director of the licensee.

1 (f) “Depository institution” has the same meaning as in Section
2 3 of the Federal Deposit Insurance Act, and includes any credit
3 union.

4 (g) “Engage in the business” means the dissemination to the
5 public, or any part of the public, by means of written, printed, or
6 electronic communication or any communication by means of
7 recorded telephone messages or spoken on radio, television, or
8 similar communications media, of any information relating to the
9 making of residential mortgage loans, the servicing of residential
10 mortgage loans, or both. “Engage in the business” also means,
11 without limitation, making residential mortgage loans or servicing
12 residential mortgage loans, or both.

13 (h) “Federal banking agencies” means the Board of Governors
14 of the Federal Reserve System, the Comptroller of the Currency,
15 the National Credit Union Administration, and the Federal Deposit
16 Insurance Corporation.

17 (i) “In this state” includes any activity of a person relating to
18 making or servicing a residential mortgage loan that originates
19 from this state and is directed to persons outside this state, or that
20 originates from outside this state and is directed to persons inside
21 this state, or that originates inside this state and is directed to
22 persons inside this state, or that leads to the formation of a contract
23 and the offer or acceptance thereof is directed to a person in this
24 state (whether from inside or outside this state and whether the
25 offer was made inside or outside the state).

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

27 (1) The United States or any state, district, territory, or
28 commonwealth thereof, or any city, county, city and county, public
29 district, public authority, public corporation, public entity, or
30 political subdivision of a state, district, territory, or commonwealth
31 of the United States, or any agency or other instrumentality of any
32 one or more of the foregoing, including, by way of example, the
33 Federal National Mortgage Association and the Federal Home
34 Loan Mortgage Corporation.

35 (2) Any bank, trust company, savings bank or savings and loan
36 association, credit union, industrial bank or industrial loan
37 company, personal property broker, consumer finance lender,
38 commercial finance lender, or insurance company, or subsidiary
39 or affiliate of one of the preceding entities, doing business under
40 the authority of or in accordance with a license, certificate, or

1 charter issued by the United States or any state, district, territory,
2 or commonwealth of the United States.

3 (3) Trustees of pension, profit-sharing, or welfare funds, if the
4 pension, profit-sharing, or welfare fund has a net worth of not less
5 than fifteen million dollars (\$15,000,000), except pension,
6 profit-sharing, or welfare funds of a licensee or its affiliate,
7 self-employed individual retirement plans, or individual retirement
8 accounts.

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

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

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

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

23 (6) A residential mortgage lender or servicer licensed to make
24 residential mortgage loans under this law or an affiliate or
25 subsidiary of that person.

26 (7) Any person who is licensed as a securities broker or
27 securities dealer under any law of this state, or of the United States,
28 or any employee, officer, or agent of that person, if that person is
29 acting within the scope of authority granted by that license or an
30 affiliate or subsidiary controlled by that broker or dealer, in
31 connection with a transaction involving the offer, sale, purchase,
32 or exchange of one or more promissory notes secured directly or
33 indirectly by liens on real property or a security representing an
34 ownership interest in a pool of promissory notes secured directly
35 or indirectly by liens on real property, and the offer and sale of
36 those securities is qualified under the California Corporate
37 Securities Law of 1968 or registered under federal securities laws,
38 or exempt from qualification or registration.

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

4 (9) A business development company as defined in Section
5 2(a)(48) of the Investment Company Act of 1940 or a small
6 business investment company licensed by the United States Small
7 Business Administration under Section 301(c) or (d) of the Small
8 Business Investment Act of 1958.

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

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

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

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

19 (i) Interest-bearing obligations.

20 (ii) Other contractual obligations representing the right to receive
21 payments from the assets.

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

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

25 (i) Rated as “investment grade” by Standard and Poor’s
26 Corporation or Moody’s Investors Service, Inc. “Investment grade”
27 means that the securities will be rated by Standard and Poor’s
28 Corporation as AAA, AA, A, or BBB or by Moody’s Investors
29 Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings
30 with “+” or “—” designation or other variations that occur within
31 those ratings.

32 (ii) Sold to an institutional investor.

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

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

37 (1) The United States or any state, district, territory, or
38 commonwealth thereof, or any city, county, city and county, public
39 district, public authority, public corporation, public entity, or
40 political subdivision of a state, district, territory, or commonwealth

1 of the United States, or any agency or other instrumentality of any
2 one or more of the foregoing, including, by way of example, the
3 Federal National Mortgage Association and the Federal Home
4 Loan Mortgage Corporation.

5 (2) Any bank, trust company, savings bank or savings and loan
6 association, credit union, industrial loan company, or insurance
7 company, or service or investment company that is wholly owned
8 and controlled by one of the preceding entities, doing business
9 under the authority of and in accordance with a license, certificate,
10 or charter issued by the United States or any state, district, territory,
11 or commonwealth of the United States.

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

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

17 (l) “Law” means the California Residential Mortgage Lending
18 Act.

19 (m) “Lender” means a person that (1) is an approved lender for
20 the Federal Housing Administration, Veterans Administration,
21 Farmers Home Administration, Government National Mortgage
22 Association, Federal National Mortgage Association, or Federal
23 Home Loan Mortgage Corporation, (2) directly makes residential
24 mortgage loans, and (3) makes the credit decision in the loan
25 transactions.

26 (n) “Licensee” means, depending on the context, a person
27 licensed under Chapter 2 (commencing with Section 50120),
28 Chapter 3 (commencing with Section 50130), or Chapter 3.5
29 (commencing with Section 50140).

30 (o) “Makes or making residential mortgage loans” or “mortgage
31 lending” means processing, underwriting, or as a lender using or
32 advancing one’s own funds, or making a commitment to advance
33 one’s own funds, to a loan applicant for a residential mortgage
34 loan.

35 (p) “Mortgage loan,” “residential mortgage loan,” or “home
36 mortgage loan” means a federally related mortgage loan as defined
37 in Section 1024.2 of Title 12 of the Code of Federal Regulations,
38 or a loan made to finance construction of a one-to-four family
39 dwelling.

1 (q) “Mortgage servicer” or “residential mortgage loan servicer”
2 means a person that (1) is an approved servicer for the Federal
3 Housing Administration, Veterans Administration, Farmers Home
4 Administration, Government National Mortgage Association,
5 Federal National Mortgage Association, or Federal Home Loan
6 Mortgage Corporation, and (2) directly services or offers to service
7 mortgage loans.

8 (r) “Nationwide Mortgage Licensing System and Registry”
9 means a mortgage licensing system developed and maintained by
10 the Conference of State Bank Supervisors and the American
11 Association of Residential Mortgage Regulators for the licensing
12 and registration of licensed mortgage loan originators.

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

14 (t) “Own funds” means (1) cash, corporate capital, or warehouse
15 credit lines at commercial banks, savings banks, savings and loan
16 associations, industrial loan companies, or other sources that are
17 liability items on a lender’s financial statements, whether secured
18 or unsecured, or (2) a lender’s affiliate’s cash, corporate capital,
19 or warehouse credit lines at commercial banks or other sources
20 that are liability items on the affiliate’s financial statements,
21 whether secured or unsecured. “Own funds” does not include funds
22 provided by a third party to fund a loan on condition that the third
23 party will subsequently purchase or accept an assignment of that
24 loan.

25 (u) “Person” means a natural person, a sole proprietorship, a
26 corporation, a partnership, a limited liability company, an
27 association, a trust, a joint venture, an unincorporated organization,
28 a joint stock company, a government or a political subdivision of
29 a government, and any other entity.

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

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

35 (x) “Service” or “servicing” means receiving more than three
36 installment payments of principal, interest, or other amounts placed
37 in escrow, pursuant to the terms of a mortgage loan and performing
38 services by a licensee relating to that receipt or the enforcement
39 of its receipt, on behalf of the holder of the note evidencing that
40 loan.

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

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

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

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

15 SEC. 26. Section 8870.1 of the Government Code is amended
16 to read:

17 8870.1. (a) (1) There is created in the state government the
18 Alfred E. Alquist Seismic Safety Commission as an independent
19 unit within the ~~Business, Consumer Services, and Housing~~ *Business*
20 *and Consumer Services Agency*.

21 (2) Any reference in statute or regulation to the Seismic Safety
22 Commission shall be deemed to refer to the Alfred E. Alquist
23 Seismic Safety Commission.

24 (b) The commission shall report annually to the Governor and
25 to the Legislature on its findings, progress, and recommendations
26 relating to earthquake hazard reduction, and any other seismic
27 safety issues, as requested by the Governor or the Legislature.

28 SEC. 27. Section 8870.2 of the Government Code is amended
29 to read:

30 8870.2. (a) The Alfred E. Alquist Seismic Safety Commission
31 shall consist of 15 members appointed by the Governor and
32 confirmed by the Senate, one member representing the Office of
33 Emergency Services, one member representing the Division of the
34 State Architect in the Department of General Services, one member
35 representing the California Building Standards Commission, one
36 member appointed by the Senate Committee on Rules, and one
37 member appointed by the Speaker of the Assembly. The
38 commission shall elect annually from its membership its own
39 chairperson and vice chairperson and may replace them with other

1 commissioners by majority vote. Commission members shall be
2 residents of California.

3 (b) A quorum shall consist of 11 members if there are no
4 vacancies, or else a majority of the members of the commission
5 at the time.

6 (c) The Legislature declares that the individuals appointed to
7 the commission are intended to represent the professions of
8 architecture, planning, fire protection, public utilities, structural
9 engineering, geotechnical engineering, geology, seismology, local
10 government, insurance, social services, emergency services, and
11 the Legislature and that such representation serves the public
12 interest. Accordingly, the Legislature finds that for purposes of
13 persons who hold this office the specified professions are
14 tantamount to and constitute the public generally within the
15 meaning of Section 87103.

16 (d) The commission exists as a separate unit within the ~~Business,~~
17 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
18 Agency, and has the functions of prescribing policy, holding
19 meetings and setting dates of the meetings, conducting
20 investigations, and holding hearings insofar as those powers are
21 given by statute to the commission.

22 (e) The decisions and actions of the commission, with respect
23 to exercising its authority and carrying out its duties under this
24 chapter, or any other applicable law, are not subject to review by
25 the Secretary of ~~Business, Consumer Services, and Housing,~~
26 *Business and Consumer Services*, but are final within the limits
27 provided by this chapter.

28 (f) The Legislature further declares that the highest level of
29 service that the individuals appointed to the commission can
30 provide to the residents of California is to offer professional,
31 unbiased, scientifically based advice to the Governor and the
32 Legislature. To maintain this quality of service, it is imperative
33 that the commission retain its functional autonomy and access to
34 the Governor and the Legislature. As such, the commission shall
35 retain its existing authority to issue reports, publications, and
36 literature, as well as to sponsor legislation, and to take official
37 positions on proposed state and federal legislation.

38 SEC. 28. Section 11546.1 of the Government Code is amended
39 to read:

1 11546.1. The Department of Technology shall improve the
2 governance and implementation of information technology by
3 standardizing reporting relationships, roles, and responsibilities
4 for setting information technology priorities.

5 (a) (1) Each state agency shall have a chief information officer
6 who is appointed by the head of the state agency, or by the head's
7 designee, subject to the approval of the Department of Technology.

8 (2) A chief information officer appointed under this subdivision
9 shall do all of the following:

10 (A) Oversee the information technology portfolio and
11 information technology services within his or her state agency
12 through the operational oversight of information technology
13 budgets of departments, boards, bureaus, and offices within the
14 state agency.

15 (B) Develop the enterprise architecture for his or her state
16 agency, subject to the review and approval of the Department of
17 Technology, to rationalize, standardize, and consolidate
18 information technology applications, assets, infrastructure, data,
19 and procedures for all departments, boards, bureaus, and offices
20 within the state agency.

21 (C) Ensure that all departments, boards, bureaus, and offices
22 within the state agency are in compliance with the state information
23 technology policy.

24 (b) (1) Each state entity shall have a chief information officer
25 who is appointed by the head of the state entity.

26 (2) A chief information officer appointed under this subdivision
27 shall do all of the following:

28 (A) Supervise all information technology and
29 telecommunications activities within his or her state entity,
30 including, but not limited to, information technology, information
31 security, and telecommunications personnel, contractors, systems,
32 assets, projects, purchases, and contracts.

33 (B) Ensure the entity conforms with state information technology
34 and telecommunications policy and enterprise architecture.

35 (c) Each state agency shall have an information security officer
36 appointed by the head of the state agency, or the head's designee,
37 subject to the approval by the Department of Technology. The
38 state agency's information security officer appointed under this
39 subdivision shall report to the state agency's chief information
40 officer.

1 (d) Each state entity shall have an information security officer
2 who is appointed by the head of the state entity. An information
3 security officer shall report to the chief information officer of his
4 or her state entity. The Department of Technology shall develop
5 specific qualification criteria for an information security officer.
6 If a state entity cannot fund a position for an information security
7 officer, the entity’s chief information officer shall perform the
8 duties assigned to the information security officer. The chief
9 information officer shall coordinate with the Department of
10 Technology for any necessary support.

11 (e) (1) For purposes of this section, “state agency” means the
12 Transportation Agency, Department of Corrections and
13 Rehabilitation, Department of Veterans Affairs, ~~Business,~~
14 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
15 Agency, Natural Resources Agency, California Health and Human
16 Services Agency, California Environmental Protection Agency,
17 Labor and Workforce Development Agency, ~~and~~ Department of
18 Food and ~~Agriculture.~~ *Agriculture, and the Housing Agency.*

19 (2) For purposes of this section, “state entity” means an entity
20 within the executive branch that is under the direct authority of
21 the Governor, including, but not limited to, all departments, boards,
22 bureaus, commissions, councils, and offices that are not defined
23 as a “state agency” pursuant to paragraph (1).

24 (f) A state entity that is not defined under subdivision (e) may
25 voluntarily comply with any of the requirements of Sections
26 11546.2 and 11546.3 and may request assistance from the
27 Department of Technology to do so.

28 SEC. 29. Section 11550 of the Government Code is amended
29 to read:

30 11550. (a) Effective January 1, 1988, an annual salary of
31 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to
32 each of the following:

- 33 (1) Director of Finance.
- 34 (2) Secretary of Transportation.
- 35 (3) Secretary of the Natural Resources Agency.
- 36 (4) Secretary of California Health and Human Services.
- 37 (5) Secretary of ~~Business, Consumer Services, and Housing.~~
38 *Business and Consumer Services.*
- 39 (6) Commissioner of the California Highway Patrol.

1 (7) Secretary of the Department of Corrections and
2 Rehabilitation.

3 (8) Secretary of Food and Agriculture.

4 (9) Secretary of Veterans Affairs.

5 (10) Secretary of Labor and Workforce Development.

6 (11) Secretary for Environmental Protection.

7 (12) Secretary of Government Operations.

8 (13) *Secretary of Housing*.

9 (b) The annual compensation provided by this section shall be
10 increased in any fiscal year in which a general salary increase is
11 provided for state employees. The amount of the increase provided
12 by this section shall be comparable to, but shall not exceed, the
13 percentage of the general salary increases provided for state
14 employees during that fiscal year.

15 SEC. 30. Section 12800 of the Government Code is amended
16 to read:

17 12800. (a) There are in the state government the following
18 agencies: ~~Business, Consumer Services, and Housing~~; *Business*
19 *and Consumer Services*; Transportation; California Environmental
20 Protection; California Health and Human Services; Labor and
21 Workforce Development; Natural Resources; Government
22 Operations; *Housing*; and Corrections and Rehabilitation.

23 (b) The secretary of an agency shall be generally responsible
24 for the sound fiscal management of each department, office, or
25 other unit within the agency. The secretary shall review and
26 approve the proposed budget of each department, office, or other
27 unit. The secretary shall hold the head of each department, office,
28 or other unit responsible for management control over the
29 administrative, fiscal, and program performance of his or her
30 department, office, or other unit. The secretary shall review the
31 operations and evaluate the performance at appropriate intervals
32 of each department, office, or other unit, and shall seek continually
33 to improve the organization structure, the operating policies, and
34 the management information systems of each department, office,
35 or other unit.

36 SEC. 31. Section 12804 of the Government Code, as added by
37 Section 12 of Chapter 147 of the Statutes of 2012, is amended to
38 read:

1 12804. (a) There is in the state government the ~~Business,~~
2 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
3 Agency.

4 (b) The ~~Business, Consumer Services, and Housing~~ *Business*
5 *and Consumer Services* Agency shall consist of the following: the
6 Department of Consumer Affairs, ~~the Department of Housing and~~
7 ~~Community Development~~, the Department of Fair Employment
8 and Housing, the Department of Business Oversight, the
9 Department of Alcoholic Beverage Control, the Alcoholic Beverage
10 Control Appeals Board, the California Horse Racing Board, and
11 the Alfred E. Alquist Seismic Safety Commission.

12 SEC. 32. Section 12804.5 of the Government Code is amended
13 to read:

14 12804.5. The Secretary of ~~Business, Consumer Services, and~~
15 ~~Housing~~ *Business and Consumer Services* is hereby authorized to
16 develop programs for technical and fiscal assistance to facilitate
17 nonprofit, self-help community vegetable gardens and related
18 supporting activities.

19 SEC. 33. Section 12815 is added to the Government Code, to
20 read:

21 12815. (a) There is hereby established in state government a
22 Housing Agency. The Housing Agency shall be under the
23 supervision of the Secretary of Housing, who shall be appointed
24 and serve as described in Section 12801.

25 (b) The Housing Agency consists of the following:

- 26 (1) The Department of Housing and Community Development.
- 27 (2) The Department of Real Estate.
- 28 (3) The Department of Real Estate Finance.
- 29 (4) The Contractor’s State Licensing Board.
- 30 (5) The Structural Pest Control Board.

31 SEC. 34. Section 12855 of the Government Code is amended
32 to read:

33 12855. For the purpose of this chapter, “agency” means the
34 ~~Business, Consumer Services, and Housing~~ *Business and Consumer*
35 *Services* Agency, the California Environmental Protection Agency,
36 the California Health and Human Services Agency, the Natural
37 Resources Agency, the Labor and Workforce Development
38 Agency, the Government Operations Agency, the Transportation
39 Agency, *the Housing Agency*, or the Corrections and Rehabilitation

1 Agency, and “secretary” means the secretary of any ~~such agency.~~
2 *of these agencies.*

3 SEC. 35. Section 12856 of the Government Code is amended
4 to read:

5 12856. (a) The Governor, upon the recommendation of the
6 Secretary of ~~Business, Consumer Services, and Housing,~~ *Business*
7 *and Consumer Services*, may appoint up to three deputies for the
8 secretary.

9 (b) In addition to any other provision of law, the Secretary of
10 ~~Business, Consumer Services, and Housing~~ *Business and Consumer*
11 *Services* may appoint an assistant, who is exempt from the civil
12 service laws. The secretary shall prescribe the duties of the
13 appointed assistant and shall fix the salary of such assistant subject
14 to the approval of the Director of Finance. The appointed assistant
15 shall serve at the pleasure of the secretary.

16 SEC. 36. Section 12895 of the Government Code is amended
17 to read:

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

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

38 (1) Fees and any other amounts charged and collected pursuant
39 to Section 25608 of the Corporations Code, except for fees and

1 other amounts charged and collected pursuant to subdivisions (o)
2 to (r), inclusive, of Section 25608 of the Corporations Code.

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

5 SEC. 37. Section 12901 of the Government Code is amended
6 to read:

7 12901. There is in the state government, in the ~~Business,~~
8 ~~Consumer Services, and Housing~~ *Business and Consumer Services*
9 Agency, the Department of Fair Employment and Housing. The
10 department is under the direction of an executive officer known
11 as the Director of Fair Employment and Housing, who is appointed
12 by the Governor, subject to confirmation by the Senate, and who
13 holds office at the pleasure of the Governor. The annual salary of
14 the director is provided for by Chapter 6 (commencing with Section
15 11550) of Part 1 of Division 3 of Title 2.

16 SEC. 38. Section 12944 of the Government Code is amended
17 to read:

18 12944. (a) It shall be unlawful for a licensing board to require
19 any examination or establish any other qualification for licensing
20 that has an adverse impact on any class by virtue of its race, creed,
21 color, national origin or ancestry, sex, gender, gender identity,
22 gender expression, age, medical condition, genetic information,
23 physical disability, mental disability, or sexual orientation, unless
24 the practice can be demonstrated to be job related.

25 Where the commission, after hearing, determines that an
26 examination is unlawful under this subdivision, the licensing board
27 may continue to use and rely on the examination until such time
28 as judicial review by the superior court of the determination is
29 exhausted.

30 If an examination or other qualification for licensing is
31 determined to be unlawful under this section, that determination
32 shall not void, limit, repeal, or otherwise affect any right, privilege,
33 status, or responsibility previously conferred upon any person by
34 the examination or by a license issued in reliance on the
35 examination or qualification.

36 (b) It shall be unlawful for a licensing board to fail or refuse to
37 make reasonable accommodation to an individual's mental or
38 physical disability or medical condition.

39 (c) It shall be unlawful for any licensing board, unless
40 specifically acting in accordance with federal equal employment

1 opportunity guidelines or regulations approved by the commission,
 2 to print or circulate or cause to be printed or circulated any
 3 publication, or to make any non-job-related inquiry, either verbal
 4 or through use of an application form, which expresses, directly
 5 or indirectly, any limitation, specification, or discrimination as to
 6 race, religious creed, color, national origin, ancestry, physical
 7 disability, mental disability, medical condition, genetic information,
 8 sex, gender, gender identity, gender expression, age, or sexual
 9 orientation or any intent to make any such limitation, specification,
 10 or discrimination. Nothing in this subdivision shall prohibit any
 11 licensing board from making, in connection with prospective
 12 licensure or certification, an inquiry as to, or a request for
 13 information regarding, the physical fitness of applicants if that
 14 inquiry or request for information is directly related and pertinent
 15 to the license or the licensed position the applicant is applying for.
 16 Nothing in this subdivision shall prohibit any licensing board, in
 17 connection with prospective examinations, licensure, or
 18 certification, from inviting individuals with physical or mental
 19 disabilities to request reasonable accommodations or from making
 20 inquiries related to reasonable accommodations.

21 (d) It is unlawful for a licensing board to discriminate against
 22 any person because the person has filed a complaint, testified, or
 23 assisted in any proceeding under this part.

24 (e) It is unlawful for any licensing board to fail to keep records
 25 of applications for licensing or certification for a period of two
 26 years following the date of receipt of the applications.

27 (f) As used in this section, "licensing board" means any state
 28 board, agency, or authority in the ~~Business, Consumer Services,~~
 29 ~~and Housing~~ *Business and Consumer Services Agency or the*
 30 *Housing Agency* that has the authority to grant licenses or
 31 certificates which are prerequisites to employment eligibility or
 32 professional status.

33 SEC. 39. Section 50400 of the Health and Safety Code is
 34 amended to read:

35 50400. The Department of Housing and Community
 36 Development is hereby continued in existence in the ~~Business,~~
 37 ~~Consumer Services,~~ and Housing Agency.

38 SEC. 40. Section 50407.5 of the Health and Safety Code is
 39 amended to read:

1 50407.5. Notwithstanding the transfer of the department from
2 the Business, Transportation, and Housing Agency to the Business,
3 Consumer Services, and Housing Agency, *or the transfer of the*
4 *department from the Business and Consumer Services Agency to*
5 *the Housing Agency*, the department, the Department of
6 Transportation, and the California Transportation Commission
7 shall coordinate state housing and transportation policies and
8 programs to help achieve state and regional planning priorities and
9 to maximize cobenefits of infrastructure investments.

10 SEC. 41. Section 50901 of the Health and Safety Code is
11 amended to read:

12 50901. The agency shall be administered by a board of directors
13 consisting of 13 voting members, including a chairperson selected
14 by the Governor from among his or her appointees. The Treasurer;
15 the Secretary of ~~Business, Consumer Services, and Housing~~; the
16 Director of Housing and Community Development; and the
17 Secretary of Veterans Affairs, or their designees, shall be members,
18 in addition to seven members appointed by the Governor, one
19 member appointed by the Speaker of the Assembly, and one
20 member appointed by the Senate Committee on Rules. The Director
21 of Finance, the Director of Planning and Research, and the
22 executive director of the agency shall serve as nonvoting ex officio
23 members of the board.

24 SEC. 42. Section 50913 of the Health and Safety Code is
25 amended to read:

26 50913. For its activities under this division, the executive
27 director shall prepare a preliminary budget on or before December
28 1 of each year for the ensuing fiscal year to be reviewed by the
29 Secretary of ~~Business, Consumer Services, and Housing~~, the
30 Director of Finance, and the Joint Legislative Budget Committee.

31 SEC. 43. Section 12340.12 is added to the Insurance Code, to
32 read:

33 12340.12. “Director” means the Director of Real Estate
34 Finance.

35 SEC. 44. Section 12640.02 of the Insurance Code is amended
36 to read:

37 12640.02. The definitions set forth in this article shall govern
38 the construction of the terms used in this chapter but shall not
39 affect any other provisions of this code.

40 (a) “Mortgage guaranty insurance” means:

1 (1) Insurance against financial loss by reason of nonpayment
2 of principal, interest, and other sums agreed to be paid under the
3 terms of any note or bond or other evidence of indebtedness secured
4 by a mortgage, deed of trust, or other instrument constituting a
5 first lien or charge on real estate, provided the improvement on
6 the real estate is a residential building or a condominium unit or
7 buildings designed for occupancy by not more than four families.

8 (2) Insurance against financial loss by reason of nonpayment
9 of principal, interest, and other sums agreed to be paid under the
10 terms of any note or bond or other evidence of indebtedness secured
11 by a mortgage, deed of trust, or other instrument constituting a
12 junior lien or charge on real estate, provided the improvement on
13 the real estate is a residential building or a condominium unit or
14 building designed for occupancy by not more than four families.

15 (3) Insurance against financial loss by reason of nonpayment
16 of principal, interest, and other sums agreed to be paid under the
17 terms of any note or bond or other evidence of indebtedness secured
18 by a mortgage, deed of trust, or other instrument constituting a
19 lien or charge on real estate, provided the improvement on the real
20 estate is a building or buildings designed for occupancy by five or
21 more families or designed to be occupied for industrial or
22 commercial purposes.

23 (4) Insurance against financial loss by reason of nonpayment
24 of rent and other sums agreed to be paid under the terms of a
25 written lease for the possession, use, or occupancy of real estate,
26 provided the improvement on the real estate is a building or
27 buildings designed to be occupied for industrial or commercial
28 purposes.

29 (b) (1) “Authorized real estate security” for the purposes of this
30 chapter means either (A) real estate, plus the balance of any
31 pledged cash account, pledged borrower retirement account, or
32 collateralized guaranty agreement contracted for by parents, blood
33 relatives, employers, or nonprofit corporations for the benefit of
34 the borrower; or (B) real estate securing a note, bond, or other
35 evidence of indebtedness by a junior mortgage, deed of trust, or
36 other instrument constituting a junior lien or charge on the real
37 estate, which, when combined with all existing mortgage loan
38 amounts, does not exceed a total indebtedness equal to 103 percent
39 of the fair market value of the real estate at the time the junior loan
40 is made, provided that, in determining the foregoing 103-percent

1 limitation, if the loan securing the junior lien is an equity line of
2 credit loan, the full amount of the line of credit to be secured by
3 the junior lien shall be considered the amount of the loan, and
4 further provided, in all cases that both of the following are true:

5 (i) The real estate loan secured in this manner is any type of
6 loan that a bank, savings association, mortgage banker, credit
7 union, mortgage loan broker, or insurance company, which is
8 supervised and regulated by a department of this state or an agency
9 of the federal government, is authorized to make or arrange, or
10 would be authorized to make or arrange, disregarding any
11 requirement applicable to an institution that the amount of the loan
12 not exceed a certain percentage of the value of the real estate.

13 (ii) The improvement on the real estate is a building or buildings
14 designed for occupancy as specified by paragraphs (1), (2), and
15 (3) of subdivision (a).

16 (2) The lien on the real estate may be subject and subordinate
17 to the following:

18 (A) The lien of any public bond, assessment, or tax, when no
19 installment, call, or payment of or under the bond, assessment, or
20 tax is delinquent.

21 (B) Outstanding mineral, oil or timber rights, rights-of-way,
22 easements or rights-of-way or support, sewer rights, building
23 restrictions or other restrictions or covenants, conditions or
24 regulations of use, or outstanding leases upon the real property
25 under which rents or profits are reserved to the owner thereof.

26 (3) “Authorized real estate security” also means a stock or
27 membership certificate issued to a tenant-stockholder or
28 resident-member by a completed fee simple cooperative housing
29 corporation, as defined in Section 17265 of the Revenue and
30 Taxation Code and Section 216 of the United States Internal
31 Revenue Code.

32 (c) “Contingency reserve” means an additional premium reserve
33 established for the protection of policyholders against the effect
34 of adverse economic cycles.

35 (d) “Policyholders surplus” means the aggregate of capital,
36 surplus, and contingency reserve.

37 (e) “Director” means the Director of Real Estate Finance.

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