

Assembly Bill No. 2428

CHAPTER 428

An act to amend Sections 22050, 22340.1, and 22600.1 of the Financial Code, relating to finance lenders.

[Approved by Governor September 11, 1998. Filed with Secretary of State September 11, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, Knox. Finance lenders.

Existing law, known as the California Finance Lenders Law, provides for the licensure of persons who make consumer loans and commercial loans, and governs the terms and conditions of those loans. Existing law exempts certain loans and certain persons from those provisions.

This bill would exempt from those provisions any public corporation or public entity other than the state, or any agency of those entities, when making any loan in compliance with federal and state laws and regulations.

Existing law with respect to consumer loans and commercial loans authorizes a finance lender, until January 1, 2000, to sell to institutional lenders or investors promissory notes evidencing an obligation to repay certain federally related mortgage loans (consumer loans) or the obligation to repay real estate secured business purpose loans (commercial loans), as specified.

This bill would extend this authorization indefinitely.

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

SECTION 1. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.



(d) This division does not apply to a check cashier who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

(f) This division does not apply to any public corporation as defined in Section 67510 of the Government Code, any public entity other than the state as defined in Section 811.2 of the Government Code, or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal and state laws and regulations.

SEC. 2. Section 22340.1 of the Financial Code is amended to read:

22340.1. (a) A licensee that is a finance lender may sell to (1) an institutional lender, or (2) an institutional investor described in paragraph (6) of subdivision (b) of Section 22340, promissory notes evidencing the obligation to repay federally related mortgage loans, as defined in Section 3500.2 of Title 24 of the Code of Federal Regulations, purchased from and made by an institutional lender, and may make agreements for the collection of payments and performance of services with respect to those notes. For purposes of this section, “institutional lender” means any bank, trust company, savings bank or savings and loan association, credit union, industrial loan company or residential mortgage lender doing business under the authority of and in accordance with a license, certificate or charter issued by the United States or this state.

(b) In the absence of agreement to the contrary by the licensee and the institutional investor or institutional lender, all payments received from the collection of payments shall be deposited and maintained in a trust account, and shall be disbursed from the trust account only in accordance with the instructions of the owner of the promissory note.

SEC. 3. Section 22600.1 of the Financial Code is amended to read:

22600.1. (a) A licensee that is a finance lender may sell to (1) an institutional lender, or (2) an institutional investor described in paragraph (6) of subdivision (b) of Section 22600, promissory notes evidencing the obligation to repay real estate secured business purpose loans, as defined in Section 3500.5 of Title 24 of the Code of Federal Regulations, purchased from and made by an institutional lender, and may make agreements for the collection of payments and performance of services with respect to those notes. For purposes of this section, “institutional lender” means any bank, trust company, savings bank or savings and loan association, credit union, or industrial loan company doing business under the authority of and in accordance with a license, certificate or charter issued by the United States or this state.



(b) In the absence of agreement to the contrary by the licensee and the institutional investor or institutional lender, all payments received from the collection of payments shall be deposited and maintained in a trust account, and shall be disbursed from the trust account only in accordance with the instructions of the owner of the promissory note.

