

AMENDED IN ASSEMBLY APRIL 10, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2403**

**Introduced by Assembly Member Maddox**

February 24, 2000

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An act to amend ~~Section~~ *Sections 50302 and 50401* of the Financial Code, relating to residential mortgage lending.

LEGISLATIVE COUNSEL'S DIGEST

AB 2403, as amended, Maddox. Residential mortgage lending.

Existing law, the California Residential Mortgage Lending Act, sets annual assessments to be paid to the commissioner by licensees based on a pro rata share of total administrative costs to operate the program and a percentage of the income of each licensee.

This bill would remove obsolete portions of ~~this provision~~ *these provisions. This bill would revise the time and method for determining the annual assessments to be paid by licensees.*

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

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

1 SECTION 1. *Section 50302 of the Financial Code is*  
2 *amended to read:*

1 50302. (a) ~~Commencing June 30, 1996, and as~~ As  
2 often as the commissioner deems necessary and  
3 appropriate, but at least once every ~~24~~ 48 months, the  
4 commissioner shall examine the affairs of each licensee  
5 for compliance with this division. ~~The commissioner may,~~  
6 ~~as the commissioner deems necessary and appropriate,~~  
7 ~~conduct an examination of the affairs of a licensee prior~~  
8 ~~to June 30, 1996.~~ The commissioner shall appoint suitable  
9 persons to perform the examination. The commissioner  
10 and his or her appointees may examine the books,  
11 records, and documents of the licensee, and may examine  
12 the licensee's officers, directors, employees, or agents  
13 under oath regarding the licensee's operations. The  
14 commissioner may cooperate with any agency of the state  
15 or federal government, other states, agencies, the federal  
16 national mortgage association, or the federal home loan  
17 mortgage corporation. The commissioner may accept an  
18 examination conducted by one of these entities in place  
19 of an examination by the commissioner under this law,  
20 unless the commissioner determines that the  
21 examination does not provide information necessary to  
22 enable the commissioner to fulfill his or her  
23 responsibilities under this division.

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

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

35 (d) The licensee shall pay, and the commissioner shall  
36 assess, the reasonable expenses of a nonroutine regulatory  
37 examination of the licensee and affiliates.

38 (e) The statement of the findings of an examination  
39 shall belong to the commissioner and shall not be  
40 disclosed to anyone other than the licensee, law



1 enforcement officials, or other state or federal regulatory  
2 agencies for further investigation and enforcement.  
3 Reports required of licensees by the commissioner under  
4 this division and results of examinations performed by the  
5 commissioner under this division are the property of the  
6 commissioner.

7 *SEC. 2.* Section 50401 of the Financial Code is  
8 amended to read:

9 50401. (a) In addition to other fees and  
10 reimbursements required to be paid under this division,  
11 each licensee shall pay to the commissioner an amount  
12 equal to the greater of: (1) its pro rata share of all costs  
13 and expenses (including routine regulatory  
14 examinations, overhead, and the maintenance of a  
15 prudent reserve ~~of at least~~ *not to exceed* 90 days' costs and  
16 expenses) that the commissioner reasonably expects to  
17 incur in the next fiscal year in the administration of this  
18 division and not otherwise recovered by the  
19 commissioner under this division or from the State  
20 Corporations Fund, plus a deficit or less a surplus actually  
21 incurred during the current fiscal year; or (2) five  
22 thousand dollars (\$5,000). The pro rata share shall be the  
23 sum of: (A) a number derived from the ratio of the  
24 aggregate principal amount of the mortgage loans  
25 secured by residential real property originated by the  
26 licensee to all mortgage loans secured by residential real  
27 property originated by all licensees under this division, as  
28 shown by the annual financial reports to the  
29 commissioner, which number is then multiplied by  
30 one-half of the costs and expenses estimated by the  
31 commissioner for the next fiscal year; plus (B) a number  
32 derived from the ratio of the average value of mortgage  
33 loans secured by residential real property serviced by a  
34 licensee to the average value of all mortgage loans  
35 secured by residential real property serviced by all  
36 licensees under this division, as shown by the annual  
37 financial reports to the commissioner, which number is  
38 then multiplied by one-half of the costs and expenses  
39 estimated by the commissioner for the next fiscal year.  
40 For the purposes of this section, the "principal amount"



1 of a mortgage loan means the initial total amount a  
2 borrower is obligated to repay the lender and the  
3 “average value” of loans serviced means the sum of the  
4 aggregate dollar value of all mortgage loans secured by  
5 residential real property serviced by a licensee,  
6 calculated as of the last day of each month in the calendar  
7 year just ended, divided by 12.

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

14 ~~The assessment shall be fixed by the commissioner by~~  
15 ~~notice to all licensees on or before May 30 of each year.~~

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

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

26 (c) On or before the 30th day of ~~May~~ *August* in each  
27 year, the commissioner shall notify each licensee by mail  
28 of the amount assessed and levied against it and that  
29 amount shall be paid within 20 days. If payment is not  
30 made within 20 days, the commissioner shall assess and  
31 collect a penalty, in addition to the assessment of 1  
32 percent of the assessment for each month or part of a  
33 month that the payment is delayed or withheld.

34 (d) If a licensee fails to pay the assessment on or before  
35 the 30th day of June following the day upon which  
36 payment is due, the commissioner may by order  
37 summarily suspend or revoke the license issued to the  
38 licensee. An order issued under this section is not stayed  
39 by the filing of a request for a hearing. If, after an order  
40 is made, the request for hearing is filed in writing within



1 15 days from the date of service of the order and a hearing  
2 is not held within 60 days of the filing, the order is deemed  
3 rescinded as of its effective date. During a period when  
4 its license is revoked or suspended, a licensee shall not  
5 conduct business pursuant to this division except as may  
6 be permitted by further order of the commissioner.  
7 However, the revocation, suspension, or surrender of a  
8 license shall not affect the powers of the commissioner as  
9 provided in this division.

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