

NOVEMBER 8, 2017
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Legislative
Committee Meeting





CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, CA 95827
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800-321-CSLB (2752)
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STATE OF CALIFORNIA

Governor Edmund G. Brown Jr.

NOTICE OF LEGISLATIVE COMMITTEE MEETING

Wednesday, November 8, 2017, 9:00 a.m. – 11:00 a.m. (or until the conclusion of business)
Contractors State License Board HQ, John C. Hall Hearing Room
9821 Business Park Drive, Sacramento, CA 95827

Meetings are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. All times when stated are approximate and subject to change without prior notice at the discretion of each Committee's Chair unless listed as "time certain." Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. Action may be taken on any item listed on this agenda, including information-only items. The meeting may be canceled without notice.

Members of the public can address the Committee during the public comment session. Public comments will also be taken on agenda items at the time the agenda item is heard and prior to the CSLB's Committee taking any action on said items. Total time allocated for public comment may be limited at the discretion of each Committee Chair.

LEGISLATIVE COMMITTEE MEETING AGENDA

Legislative Committee Members:

Agustin "Augie" Beltran, Chair / Linda Clifford / David De La Torre / Susan Granzella / Joan Hancock / Michael Layton

- A. Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction
- B. Staff Recognition – May Include Oral Presentations to CSLB Staff Commemorating Achievements and Service
- C. Public Comment Session for Items not on the Agenda and Future Agenda Item Requests
(Note: Individuals may appear before the Committee to discuss items not on the agenda; however, the CSLB's Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).)
- D. Update on 2017 Legislation
 - 1. AB 1070 (Gonzalez Fletcher) Solar Energy Systems: Contracts: Disclosures
 - 2. AB 1190 (Oberholte) Department of Consumer Affairs: BreEZe System
 - 3. AB 1278 (Low) Contractor Licensing: Final Judgments
 - 4. AB 1284 (Dababneh) California Financing Law: Property Assessed Clean Energy Program: Program Administrators
 - 5. AB 1357 (Chu) Home Inspectors: Roofing Contractors: Roof Inspections
 - 6. SB 242 (Skinner) Property Assessed Clean Energy Program: Program Administrator
 - 7. SB 486 (Monning) Contractors State License Law: Letter of Admonishment
 - 8. SB 800 (Business, Professions and Economic Development) Annual DCA Omnibus Bill (Clean-up)
- E. Review, Discussion, and Possible Action on Potential 2018 Legislative Proposals
 - 1. Remove Statutory Authority for Registrar to Accept Cash Deposit in Lieu of Bond
 - 2. Multiple-Firm License Qualifier Requirements
 - 3. Clarify Authority to Hold Informal Citation Appeal Conferences

4. Increase the Statute of Limitations to Prosecute a Contractor for Failure to Secure Required Workers' Compensation Coverage

F. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Legislative Objectives

G. Adjournment

***Note:** Members of the Board who are not members of the Committee may attend the Committee meetings. However, if a majority of members of the full board are present at any of the Committee meetings, members who are not Committee members may attend the meeting as observers only.

The Board intends to provide a live webcast of the meeting. The webcast can be located at www.cslb.ca.gov. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties. The meeting will continue even if the webcast is unavailable. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Phyliz Jones at (916) 255-4000 or phyliz.jones@cslb.ca.gov or send a written request to Phyliz Jones, 9821 Business Park Drive, Sacramento, CA 95827. Providing your request at least five (5) business days prior to the meeting will help ensure availability of the requested accommodation.



CONTRACTORS STATE LICENSE BOARD

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9821 Business Park Drive, Sacramento, CA 95827

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AGENDA ITEM A

Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

LEGISLATIVE COMMITTEE MEMBERS:

AGUSTIN "AUGIE" BELTRAN, CHAIR

LINDA CLIFFORD

DAVID DE LA TORRE

SUSAN GRANZELLA

JOAN HANCOCK

MICHAEL LAYTON

Committee Chair Agustin "Augie" Beltran will review the scheduled Committee actions and make appropriate announcements.



AGENDA ITEM B

Staff Recognition – May Include Oral Presentations to CSLB Staff Commemorating Achievements and Service



AGENDA ITEM C

Public Comment Session for Items not on the Agenda and Future Agenda Item Requests

(Note: Individuals may appear before the Committee to discuss items not on the agenda; however, the CSLB's Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).



AGENDA ITEM D

Update on 2017 Legislation

1. AB 1070 (Gonzalez Fletcher) Solar Energy Systems:
Contracts: Disclosures
2. AB 1190 (Oberholte) Department of Consumer Affairs:
BreEZe System
3. AB 1278 (Low) Contractor Licensing: Final Judgments
4. AB 1284 (Dababneh) California Financing Law:
Property Assessed Clean Energy Program:
Program Administrators
5. AB 1357 (Chu) Home Inspectors: Roofing Contractors:
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Letter of Admonishment
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Annual DCA Omnibus Bill (Clean-up)





CONTRACTORS STATE LICENSE BOARD

UPDATE ON 2017 LEGISLATION

Bill # & Author	Topic	Bill Title	Position	Status	Fiscal Impact	Link
AB 1070 (Gonzalez Fletcher)	Solar Contracts	Electrical Contractors: Local Permits	Support	Governors Signed 10/11/17 – Ch. 662	\$140,000; \$100,000	AB 1070
AB 1190 (Oberholte)	BreEZe	Department of Consumer Affairs: BreEZe System	Watch	Governor Vetoed 10/7/17	None	AB 1190: Veto Message
AB 1278 (Low)	Judgments	Contractor Licensing: Final Judgments	Support if Amended	Governor Signed 10/5/17 – Ch. 506	Minor	AB 1278
AB 1284 (Dababneh)	PACE	Program Administrators	Watch	Governor Signed 10/4/17 – Ch. 475	Pending	AB 1284
AB 1357 (Chu)	Roof Inspections	Home Inspectors: Roofing Contractors: Roof Inspections	Watch	Governor Signed 10/5/17 – Ch. 508	None	AB 1357
SB 242 (Skinner)	PACE	Program Administrators	Watch	Governor Signed 10/4/17 – Ch. 484	Pending	SB 242
SB 486 (Monning)	Letter of Admonishment	Contractors' State License Law: Letter of Admonishment	None	Governor Signed 9/26/17 – Ch. 308	None	SB 486
SB 800 (Committee on Bus., Prof., & Econ. Dev.)	License Reassignment	Professions and Vocations	Support	Governor Signed 10/7/17 – Ch. 573	None	SB 800

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number:	AB 1070 (Gonzalez Fletcher)
Status/Location:	Amended 9/1/17 – Governor’s Desk
Sponsor:	None
Subject:	Solar Energy Systems: Contracts: Disclosures
Code Section:	Business & Professions 7169 & 7170; Public Utilities 2854.6

Summary:

Existing law: defines a solar energy system as either: (1) any solar collector or other solar energy device, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating; or (2) any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

Existing law: authorizes the legislative body of a public agency, as defined, to determine that it would be convenient, advantageous, and in the public interest to designate an area within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance certain improvements, and to utilize Property Assessed Clean Energy (PACE) financing for the installation of distributed generation renewable energy sources and energy or water efficiency improvements, as specified. Existing law requires a financing estimate and disclosure form be completed and delivered to a property owner before the property owner consummates a voluntary contractual assessment pursuant to one of these programs.

This bill requires:

1. By July 1, 2018, requires the Contractors State License Board (CSLB), in collaboration with the Public Utilities Commission, to develop and make available online a “solar energy system disclosure contract” that a solar energy systems company must provide to a consumer prior to completing the sale, financing, or leasing of a solar energy system. The “solar energy system disclosure documents” shall be printed on the front or cover page of each contract. The disclosure document shall be printed in 16 point boldface type and include the following:
 - (a) The total cost and payments for the system, including financing costs.
 - (b) Information on how and to whom customers may provide complaints.
 - (c) The consumer’s right to a three day cooling off period.
 - (d) At CSLB’s discretion, other types of information deemed appropriate or useful in furthering the goal, including, but not limited to:

- (1) The amounts and source of financing obtained.
 - (2) The calculations used by the home improvement salesperson to determine how many panels the homeowner needs to install.
 - (3) The calculations used by the home improvement salesperson to determine how much energy the panels will generate.
 - (4) Any additional monthly fees the homeowner's electric company may charge, any turn-on charges, and any fees added for the use of an Internet monitoring system of the panels or inverters.
 - (5) The terms and conditions of any guaranteed rebate.
 - (6) The final contract price, without the inclusion of possible rebates.
 - (7) The solar energy system company's contractor license number.
 - (8) The impacts of solar energy system installations not performed to code.
 - (9) Types of solar energy system malfunctions.
 - (10) Information about the difference between a solar energy system lease and a solar energy system purchase.
 - (11) The affects that the financing options, lease agreement terms, or contract terms will have on the future sale of the consumer's home, including any balloon payments or solar energy system relocation that may be required if the contract is not assigned to the new homeowner.
 - (12) A calculator that calculates performance of solar projects to provide solar customers the solar power system's projected output, which may include an expected performance-based calculator.
- e) That the contract for sale, financing, or lease of a solar energy system, and the disclosure documents shall be written in the same language as was principally used in the oral sale presentation made to the consumer or the printout of digital marketing material given to the consumer.
 - f) CSLB to post the PACE Financing Estimate and Disclosure form online.
2. Defines "solar energy system" as a solar energy device with the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity that produces at least one kw, and not more than 5 mw, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to the Public Resources Code.
 3. That CSLB shall receive and resolve complaints and consumer questions regarding solar energy systems companies and solar contractors.
 4. That DCA additionally receive complaints received from state agencies regarding solar energy systems companies and solar contractors.
 5. That CSLB annually, beginning January 1, 2019, compile a report documenting consumer complaints relating to solar energy systems companies and solar contractors, which shall include:
 - (a) The number and type of complaints;
 - (b) The zip code where the consumer complaint originated; and
 - (c) The disposition of all complaints received against a solar contractor.
 6. That a consumer who enters into a contract for sale, financing, or lease of a solar energy system shall be afforded a period of no more than three days in which to cancel the contract.

7. That the Public Utilities Commission (PUC) develop standardized inputs and assumptions for use in the calculation and presentation of electric utility bill savings a consumer can expect by using a solar energy system.

Background:

According to the author:

“Californians are committed to aggressive action to address the ongoing threats of climate change, including the adoption of aggressive goals for renewable energy production. These benchmarks serve as a model for the entire world and continue to motivate entire countries to take stronger steps of their own. Essential to achieving these goals and mitigating the dangerous impact people are having on our climate is ongoing investment in home solar systems. To their credit, Californians across the state have embraced this challenge enthusiastically, leading to a major boom in the solar industry. But it’s also critical that our oversight and disclosure of the household solar industry keep pace with this emerging industry.

As is too often the case, rapid expansion has led to uncertainty and occasional bad actors in the marketplace, where multiple incentive programs have presented the general public with unprecedented options but often without the levels of clarity or disclosure that other large-scale financial products carry. As a result, many consumers have been surprised by long-term financial impacts, often hindering their ability to stay in or sell their homes. Complaints have been lodged nationwide over the lack of clear disclosures, prompting widespread efforts to improve consumer protections.

We can't rely on commission-driven salespeople in an under-regulated industry to ensure that all customers reliably receive all the information they need to make informed, responsible decisions. California has wisely used its legislative influence to help spur the growth of the home solar market. Now, the Legislature has an obligation to ensure that home solar customers receive accurate, clear and concise information about the installation of home solar systems.”

Prior Legislation:

AB 2699 (Gonzalez, 2016) contained similar requirements for a solar energy systems disclosure document, and additionally required contractors who install these systems to hold a blanket bond. This bill was held in the Assembly Appropriations Committee.

Fiscal Impact for CSLB:

Enforcement Staff (initial & ongoing) –The CSLB Enforcement division anticipates that the provisions of this bill would result in a substantial workload, since solar complaints continue to rise annually. In 2016, CSLB received 449 solar complaints – a 61 percent increase over 2015 – and closed 597 solar complaints over the last two years. Of these complaints, 48 percent were charged with a Business and Professions Code section

7159 contract violation. Between January 2017 and June 2017, CSLB received 388 solar complaints, more than double the number received for the same period in 2016.

Staff would have to handle consumer complaints and take legal action against licensees that neglect to provide the “Solar Energy System Disclosure Document” to their customers. This work would be performed full-time by one staff person in the Enforcement Representative II (ER II) classification. Total ongoing costs with benefits (assumed at the 42 percent) would be \$97,470 (2080 hours x \$33/hour x 1.42 benefits rate).

Programming/Web Services (initial) – The CSLB IT division estimates that it would take approximately 40 hours to develop the online disclosure form (Solar Energy Disclosure Document) and make it available on the CSLB website for use by solar companies. A Senior Programmer Analyst would perform this work. Total cost with benefits (assumed at the 42 percent) would be \$2,272 (40 hours x \$40/hour x 1.42 benefits rate).

Executive Staff (initial) – The CSLB Executive division estimates that it would take approximately four months (about 700 hours) to develop the language for the “Solar Energy Disclosure Document” and adopt regulations, which would require working with internal and external staff, PUC, DCA Legal, and stakeholders. A Staff Services Manager I (Specialist) would perform this work. Total cost with benefits (assumed at the 42 percent) would be \$39,760 (700 hours x \$40/hour x 1.42 benefits rate).

CSLB total cost: approximately \$140,000 (initially) and \$100,000 (ongoing).

Board Position and Comments:

Support if Amended. The Board adopted a support if amended position at the June 2017 Board meeting. The bill was since amended to address the concerns previously identified.

This bill will provide consumers additional information before entering into contracts for a solar energy system. As CSLB has received an increasing number of complaints related to solar over the last few years, there appears to be a need for better consumer education.

Date: September 8, 2017

AMENDED IN SENATE SEPTEMBER 1, 2017

AMENDED IN SENATE JULY 18, 2017

AMENDED IN ASSEMBLY MAY 2, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY MARCH 30, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1070

Introduced by Assembly Member Gonzalez Fletcher

February 16, 2017

An act to add Sections 7169 and 7170 to the Business and Professions Code, to add Section 1882.7 to the Civil Code, and to add Section 2854.6 to the Public Utilities Code, relating to solar energy systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1070, as amended, Gonzalez Fletcher. Solar energy systems: contracts: disclosures.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law requires licensed contractors to be classified and authorizes them to be classified as, among other things, a solar contractor. Under existing law, a solar contractor installs, modifies, maintains, and repairs thermal and photovoltaic solar energy systems. Existing law prohibits a solar contractor from performing building or

construction trades, crafts, or skills, except when required to install a thermal or photovoltaic solar energy system.

Existing law authorizes the legislative body of a public agency, as defined, to determine that it would be convenient, advantageous, and in the public interest to designate an area within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance certain improvements, and to utilize Property Assessed Clean Energy (PACE) financing for the installation of distributed generation renewable energy sources and energy or water efficiency improvements, as specified. Existing law requires a financing estimate and disclosure form to be completed and delivered to a property owner before the property owner consummates a voluntary contractual assessment pursuant to one of these programs.

This bill would require the board, in collaboration with the Public Utilities Commission, on or before July 1, 2018, to develop and make available on its Internet Web site a disclosure document that provides a consumer with accurate, clear, and concise information regarding the installation of a solar energy system, as specified. The bill would require this disclosure document to be provided by the solar energy systems company to the consumer prior to completion of a sale, financing, or lease of a solar energy system, as defined, and that it, and the contract, be written in the same language as was principally used in the sales presentation and marketing material. ~~The~~ *The bill would also require, for solar energy systems utilizing PACE financing, that the financing estimate and disclosure form satisfy these requirements with respect to the financing contract, as specified. The bill would also require the board to post the PACE Financing Estimate and Disclosure form on its Internet Web site.*

~~The bill would require the department~~ *Contractors' State License Board* to receive and ~~resolve~~ *review* complaints and consumer questions, and complaints received from state agencies, regarding solar energy systems companies and solar contractors. ~~The bill would~~ *would, beginning on July 1, 2019, require the department board* annually to compile a report documenting complaints it received relating to ~~solar energy systems companies and solar contractors~~ that it shall make available publicly on the ~~department's board's~~ and the Public Utilities Commission's Internet Web sites.

~~Existing law governs certain obligations arising from particular transactions, including consumer contracts.~~

~~This bill would afford a consumer who enters into a contract for sale, financing, or lease of a solar energy system a period not exceeding 3 days, during which time he or she may cancel the contract for any reason.~~

The California Constitution establishes the Public Utilities Commission and authorizes the commission to exercise ratemaking and rulemaking authority over all public utilities, as defined, subject to control by the Legislature.

~~This bill would require the Public Utilities Commission Commission, on or before July 1, 2019, to develop a standard methodology standardized inputs and assumptions to be used in the calculation and presentation of electric utility bill savings to a consumer that can be expected by using a solar energy system by vendors, installers, or financing entities and to post the methodology them on its Internet Web site. The bill also would require electrical corporations to post the methodology: standardized inputs and assumptions.~~

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. Section 7169 is added to the Business and
- 2 Professions Code, to read:
- 3 7169. (a) The board, in collaboration with the Public Utilities
- 4 Commission, shall develop and make available a “solar energy
- 5 system disclosure document” or documents that provide a
- 6 consumer, at a minimum, accurate, clear, and concise information
- 7 regarding the installation of a solar energy system, total costs of
- 8 installation, anticipated savings, the assumptions and inputs used
- 9 to estimate the savings, and the implications of various financing
- 10 options.
- 11 (b) On or before July 1, 2018, the board, in collaboration with
- 12 the Public Utilities Commission, shall develop, and make available
- 13 on its Internet Web site, the disclosure document described in
- 14 subdivision (a) that a solar energy system company shall provide
- 15 to a consumer prior to completion of a sale, financing, or lease of
- 16 a solar energy system. *The “solar energy system disclosure*
- 17 *document” shall be printed on the front page or cover page of*
- 18 *every solar energy contract.* The “solar energy system disclosure
- 19 document” ~~may include, at the board’s and the commission’s~~

discretion, shall be printed in boldface 16-point type and include the following types of information, as well as other information deemed appropriate or useful by the board and the commission in furthering the directive described in subdivision (a): primary information:

(1) ~~The amounts and sources of financing obtained.~~

~~(2)~~

(1) The total cost and payments for the system, including financing costs.

(2) Information on how and to whom customers may provide complaints.

(3) The consumer's right to a cooling off period of three days pursuant to Section 7159 of the Business and Professions Code.

(c) At the board's discretion, other types of supporting information the board and the commission deem appropriate or useful in furthering the directive described in subdivision (a) may be included in the solar energy disclose document following the front page or cover page, including, but not limited to:

(1) The amounts and sources of financing obtained.

~~(3)~~

(2) The calculations used by the home improvement salesperson to determine how many panels the homeowner needs to install.

~~(4)~~

(3) The calculations used by the home improvement salesperson to determine how much energy the panels will generate.

~~(5)~~

(4) Any additional monthly fees the homeowner's electric company may bill, any turn-on charges, and any fees added for the use of an Internet monitoring system of the panels or inverters.

~~(6)~~

(5) The terms and conditions of any guaranteed rebate.

~~(7)~~

(6) The final contract price, without the inclusion of possible rebates.

~~(8)~~

(7) The solar energy system company's contractor's license number.

~~(9)~~

(8) The impacts of solar energy system installations not performed to code.

~~(10)~~

(9) Types of solar energy system malfunctions.

~~(11)~~

(10) Information about the difference between a solar energy system lease and a solar energy system purchase.

~~(12) Information on how and to whom consumers may provide complaints.~~

~~(13) The consumer's right to a cooling-off period of three days pursuant to Section 1882.7 of the Civil Code.~~

~~(14)~~

(11) The impacts that the financing options, lease agreement terms, or contract terms will have on the sale of the consumer's home, including any balloon payments or solar energy system relocation that may be required if the contract is not assigned to the new owner of the home.

(12) *A calculator that calculates performance of solar projects to provide solar customers the solar power system's projected output, which may include an expected performance-based buydown calculator.*

~~(e)~~

(d) A contract for sale, financing, or lease of a solar energy system and the solar energy system disclosure document shall be written in the same language as was principally used in the oral sales presentation made to the consumer or the print or digital marketing material given to the consumer.

(e) *For solar energy systems utilizing Property Assessed Clean Energy (PACE) financing, the Financing Estimate and Disclosure form required by subdivision (b) of Section 5898.17 of the Streets and Highways Code shall satisfy the requirements of this section with respect to the financing contract only, but not, however, with respect to the underlying contract for installation of the solar energy system.*

(f) *The board shall post the PACE Financing Estimate and Disclosure form required by subdivision (b) of Section 5898.17 of the Streets and Highways Code on its Internet Web site.*

~~(d)~~

(g) For purposes of this section, "solar energy system" means a solar energy device to be installed on a residential building that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity, that

1 produces at least one kW, and not more than five MW, alternating
2 current rated peak electricity, and that meets or exceeds the
3 eligibility criteria established pursuant to Section 25782 of the
4 Public Resources Code.

5 (e)

6 (h) This section does not apply to a solar energy system that is
7 installed as a standard feature on new construction.

8 SEC. 2. Section 7170 is added to the Business and Professions
9 Code, to read:

10 7170. (a) ~~The Department of Consumer Affairs~~ *Contractors'*
11 *State License Board* shall receive and ~~resolve~~ *review* complaints
12 and consumer questions regarding solar energy systems companies
13 and solar contractors. ~~The department board~~ shall also receive
14 complaints received from state agencies regarding solar energy
15 systems companies and solar contractors.

16 (b) ~~The department~~ *Beginning on July 1, 2019, the board*
17 annually shall compile a report documenting consumer complaints
18 relating to ~~solar energy systems companies and~~ solar contractors.
19 The report shall be made available publicly on the ~~department's~~
20 *board's* and the Public Utilities Commission's Internet Web sites.
21 The report shall contain all of the following:

22 (1) ~~The name of the solar energy system company or solar~~
23 ~~contractor.~~

24 (2)

25 (1) The number and types of ~~complaints for each business.~~
26 *complaints.*

27 (3)

28 (2) The ZIP Code where the consumer complaint originated.

29 (3) *The disposition of all complaints received against a solar*
30 *contractor.*

31 (c) For purposes of this section, "solar energy system" means
32 a solar energy device to be installed on a residential building that
33 has the primary purpose of providing for the collection and
34 distribution of solar energy for the generation of electricity, that
35 produces at least one kW, and not more than five MW, alternating
36 current rated peak electricity, and that meets or exceeds the
37 eligibility criteria established pursuant to Section 25782 of the
38 Public Resources Code.

39 SEC. 3. ~~Section 1882.7 is added to the Civil Code, to read:~~

1 ~~1882.7. (a) A consumer who enters into a contract for sale,~~
2 ~~financing, or lease of a solar energy system shall be afforded a~~
3 ~~period not exceeding three days, during which time he or she may~~
4 ~~cancel the contract for any reason.~~

5 ~~(b) For purposes of this section, “solar energy system” means~~
6 ~~a solar energy device to be installed on a residential building that~~
7 ~~has the primary purpose of providing for the collection and~~
8 ~~distribution of solar energy for the generation of electricity, that~~
9 ~~produces at least one kW, and not more than five MW, alternating~~
10 ~~current rated peak electricity, and that meets or exceeds the~~
11 ~~eligibility criteria established pursuant to Section 25782 of the~~
12 ~~Public Resources Code.~~

13 ~~(c) This section does not apply to a solar energy system that is~~
14 ~~installed as a standard feature on new construction.~~

15 ~~SEC. 4.~~

16 ~~SEC. 3.~~ Section 2854.6 is added to the Public Utilities Code,
17 to read:

18 2854.6. (a) ~~The~~ *On or before July 1, 2019, the* commission
19 ~~shall develop a standard methodology~~ *standardized inputs and*
20 ~~assumptions~~ *to be used in the calculation and presentation of*
21 ~~electric utility bill savings to a consumer that can be expected by~~
22 ~~using a solar energy system by vendors, installers, or financing~~
23 ~~entities. This methodology shall be posted by entities, and the~~
24 ~~commission and each electrical corporation shall post these~~
25 ~~standardized inputs and assumptions~~ *on their Internet Web sites.*

26 (b) For purposes of this section, “solar energy system” means
27 a solar energy device to be installed on a residential building that
28 has the primary purpose of providing for the collection and
29 distribution of solar energy for the generation of electricity, that
30 produces at least one kW, and not more than five MW, alternating
31 current rated peak electricity, and that meets or exceeds the
32 eligibility criteria established pursuant to Section 25782 of the
33 Public Resources Code.

O

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number:	AB 1190 (Obernolte)
Status/Location:	Amended 06/13/17 – Senate Floor
Sponsor:	None
Subject:	BreEZe: Annual Report
Code Section:	Business & Professions Code section 210.5

Summary:

This bill requires the Department of Consumer Affairs to post quarterly on its website the following information:

1. The estimated start and completion dates of the Department of Technology's Project Approval Lifecycle (PAL) process for the programs that were previously scheduled for the third release phase of BreEZe.
2. The status of the programs that have started the project approval process, including their current stage in the process.
3. The results and recommendation made for each program that has completed the PAL process, including the analysis of potential alternatives and cost-benefits made during stage two of the process.

Comments:

According to the Assembly Business & Professions Committee analysis, the Department of Consumer Affairs provided the following update to the Legislature earlier in 2017:

“The Department has learned many lessons from Release one (eight programs) and Release two (ten programs) of the BreEZe system. Going forward, programs that were previously scheduled for the third release of BreEZe will be utilizing the Department of Technology's Project Approval Lifecycle process to determine what IT solution best meets their individual business needs.

The objective of the Department of Technology's four-step process is to match an entity's organizational readiness and business needs with the most appropriate IT solution. In the State Auditor's report regarding BreEZe a recommendation was made that in order to ensure each of the remaining boards and bureaus receives an IT update that addresses their business needs, a cost benefit analysis should be completed. The Department has identified that the best approach to achieving this mandate is during the second stage of the Department of Technology process for each individual board.

The Department's expectation is that in some cases, the process will determine that BreEZe is the best solution. In other cases, such as the Bureau of Medical

Cannabis Regulation, a different platform may better meet the business needs. However, the resources that each of these programs has already committed to this effort will still provide value regardless of which IT solution is ultimately implemented. This includes staff training, documentation of business processes, and general expertise and knowledge of the process of transitioning into a new system. For example, the Department's training division, SOLID, which actively worked with programs in earlier releases, will continue to provide support to boards as they transition into new IT systems. Ultimately, the lessons and experiences of the first two releases will benefit the remaining boards and bureaus and their licensees regardless of which IT solution it chooses."

Fiscal Impact for CSLB:

No impact from this bill. By the end of the 2017-18 fiscal year, CSLB is projected to have spent approximately \$4.25 million on BreEZe.

Board Position and Comments:

WATCH. CSLB is one of 19 regulatory entities within DCA's Phase 3 of BreEZe implementation. CSLB is currently documenting its "as is" processes in order to prepare for a cost benefit analysis with DCA. In February 2015, the State Auditor released an audit of the BreEZe System, which found that inadequate planning and oversight led to implementation of the system at a significantly higher cost than originally estimated and to a reduced number of boards. Among the Auditor's recommendations is the type of report required by this bill.

Date: September 7, 2017

AMENDED IN SENATE JUNE 13, 2017

AMENDED IN ASSEMBLY MAY 2, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1190

Introduced by Assembly Member Obernolte

February 17, 2017

An act to *amend Section 210 of, and to add Section 210.5 to, the Business and Professions Code*, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1190, as amended, Obernolte. Department of Consumer Affairs: BreEZe system.

Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the Department of Technology, formerly known as the office of the State Chief Information Officer, based on information provided by the department in a specified manner.

This bill would require the Department of Consumer Affairs to publish, a minimum of once quarterly, prescribed information relating to BreEZe on its Internet Web site, including the estimated start and completion date of the Department of Technology's Project Approval Lifecycle (PAL) process for programs that were previously scheduled for the 3rd release of BreEZe, the status of programs that have started

the process, and the results and recommendations made for each program that has completed the PAL process. *The bill would also delete an obsolete provision relating to budget augmentation for BreEZe project costs.*

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.** *Section 210 of the Business and Professions Code*
2 *is amended to read:*
3 210. (a) (1) The department may enter into a contract with a
4 vendor for the BreEZe system, the integrated, enterprisewide
5 enforcement case management and licensing system described in
6 the department's strategic plan, no sooner than 30 days after
7 notification in writing to the chairpersons of the Appropriations
8 Committees of each house of the Legislature and the Chairperson
9 of the Joint Legislative Budget Committee.
10 (2) The amount of BreEZe system vendor contract funds,
11 authorized pursuant to this section, shall be consistent with the
12 project costs approved by the office of the State Chief Information
13 Officer based on its review and approval of the most recent BreEZe
14 Special Project Report to be submitted by the department prior to
15 contract award at the conclusion of procurement activities.
16 (3) Paragraph (2) shall apply to all Budget Act items for the
17 department that have an appropriation for the BreEZe system.
18 (b) (1) If the department enters into a contract with a vendor
19 for the BreEZe system pursuant to subdivision (a), the department
20 shall, by December 31, 2014, submit to the Legislature, the Senate
21 Committee on Business, Professions and Economic Development,
22 the Assembly Committee on Business, Professions and Consumer
23 Protection, and the budget committees of each house, a report
24 analyzing the workload of licensing personnel employed by boards
25 within the department participating in the BreEZe system.
26 (2) A report to the Legislature pursuant to this subdivision shall
27 be submitted in compliance with Section 9795 of the Government
28 Code.
29 (3) This subdivision shall become inoperative on December 1,
30 2018, pursuant to Section 10231.5 of the Government Code.

~~(e) (1) Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may augment the budgets of the boards, bureaus, commissions, committees, programs, and divisions that comprise the Department of Consumer Affairs, as defined in Section 101, for expenditure of non-General Fund moneys to pay BreEZe project costs. The augmentation may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The amount of funds augmented pursuant to the authority of this subdivision shall be consistent with project cost increases approved by the Secretary of California Technology based on the secretary's review and approval of the most recent BreEZe Special Project Report to be submitted at the conclusion of procurement activities. This subdivision shall apply to all Budget Act items for the boards, bureaus, commissions, committees, programs, and divisions that comprise the Department of Consumer Affairs, as defined in Section 101, that have an appropriation for the BreEZe system in the Budget Act of 2011.~~

~~(2) This subdivision shall become inoperative upon enactment of the Budget Act of 2012.~~

SECTION 1.

SEC. 2. Section 210.5 is added to the Business and Professions Code, to read:

210.5. (a) In connection with the department's ongoing commitment to provide quarterly and monthly updates to the Legislature on the entities that were previously scheduled for the third release of BreEZe, the department shall publish on its Internet Web site the following:

(1) The estimated start and completion date of the Department of Technology's Project Approval Lifecycle process for the programs that were previously scheduled for the third release of BreEZe.

(2) The status of the programs that have started the project approval process, including the programs' current stage in the process.

- 1 (3) The results and recommendations made for each program
- 2 that has completed the Department of Technology's Project
- 3 Approval Lifecycle process, including the results of the alternatives
- 4 and cost-benefit analyses made during Stage 2 of the process.
- 5 (b) The department shall publish the information specified in
- 6 subdivision (a) a minimum of once quarterly.

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CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number:	AB 1278 (Low)
Status/Location:	Amended 7/03/17 – Assembly Floor
Sponsor:	California State Council of Laborers
Subject:	Judgments – License Suspension
Code Section:	Business & Professions Code section 7071.17

Summary:

Existing law:

1. Requires a licensee of the Contractors State License Board (CSLB) to report a construction-related civil judgment to CSLB within 90 days of the judgment date.
2. Requires a licensee to comply with the final judgment within 90 days.
3. Provides that if the judgment is not satisfied after 90 days, the license is suspended.
4. Further provides that if a licensee does not report a final judgment, and another party informs CSLB of the final judgment, the license shall be suspended once the Registrar is made aware of the unsatisfied final judgment.
5. Provides that the license remain suspended until CSLB receives proof of satisfaction of the judgment.

This bill: Provides that if a judgment is entered against a qualifying person (qualifier) or a personnel of record of the licensee (personnel) the qualifier or personnel in question shall automatically be prohibited from serving as a qualifier or personnel on another license until the judgment is satisfied.

Background:

Under CSLB's current practice, the person requesting the license suspension has the burden of proving that the judgment is truly final.

Existing law related to reporting of judgments and license suspension for unsatisfied final judgments has been in place for some time. Previously, CSLB would record a judgment and suspend a license before determining if the appeal process was completed. CSLB would allow a licensee to submit evidence of the appeal, and would then lift the suspension during the appeal process. A licensee, whose license was suspended, sued CSLB and argued that CSLB violated his due process rights by suspending his license before the judgment was final. In response, CSLB reviewed its practices and existing law, and determined that it needed to wait until a judgment is final and that all time for appeal has passed before suspending a license. This has been CSLB policy since early 2016.

Fiscal Impact for CSLB:

Minor and absorbable.

Board Position and Comments:

SUPPORT IF AMENDED. The Board previously adopted a support if amended position, requesting some amendments related to evidence of appeal. The bill was amended subsequently to address these issues.

This bill would clarify that the judgment covers the timeframe of the contracting activity at issue, rather than when the related civil judgment is finalized. As a result, a qualifier on the license at the time of the act or misconduct subject to the judgment would be prohibited from serving in any official capacity on another license until the judgment is satisfied, irrespective of whether or not he or she associated with the license when the judgment becomes final.

Date: September 8, 2017

AMENDED IN SENATE JULY 3, 2017
AMENDED IN SENATE JUNE 13, 2017
AMENDED IN ASSEMBLY MAY 1, 2017
AMENDED IN ASSEMBLY APRIL 3, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1278

Introduced by Assembly Member Low

February 17, 2017

An act to amend Section 7071.17 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1278, as amended, Low. Contractor licensing: judgment debtor prohibition.

Existing law, the Contractors' State License Law, provides for licensing and regulation of contractors by the Contractors' State License Board. That law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board.

That law directs the board to require, as a condition precedent to accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant for a license, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on a specified unsatisfied final judgment, to file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied judgment or judgments, as specified. That law requires a

licensee to notify the registrar in writing of a specified unsatisfied final judgment imposed on the licensee within 90 days of the imposition, and to file or have on file with the board a bond sufficient to guarantee payment of an amount equal to specified unsatisfied judgments within 90 days from date of notification. That law requires the license of a licensee who does not comply with these requirements to be automatically suspended. That law prohibits the suspension from being removed until proof of satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord, is submitted to the registrar.

~~This bill would require the suspension to be removed if the licensee provides proof that the judgment is under appeal in a court of competent jurisdiction. The bill would require the suspension to be reinstated after the judgment has been upheld and no further appeal is sought, or all appeals are exhausted. The bill would revise and recast the provisions relating to notice of an unsatisfied judgment, a sufficient bond for that judgment, and suspension for failure to comply.~~

The Contractors' State License Law also requires the qualifying person and any partner of the licensee or personnel of the licensee named as a judgment debtor in an unsatisfied final judgment to be automatically prohibited from serving as an officer, director, associate, partner, owner, manager, qualifying individual, or other personnel of record of another licensee. That law requires the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee to be suspended until the license of the judgment debtor is reinstated or until those same personnel of record disassociate themselves from the renewable licensed entity.

This bill instead would, if a judgment is entered against a licensee, require a qualifying person or personnel of record of the licensee at the time of the activities on which the judgment is based to be automatically prohibited from serving as a qualifying individual or other personnel of record ~~of on another licensee, license,~~ until the judgment is satisfied. ~~The bill would require that this prohibition not apply if the qualifying person or personnel of record provides proof that the judgment is under appeal in a court of competent jurisdiction. The bill would require the suspension to be reinstated after the judgment has been upheld and no further appeal is sought, or all appeals are exhausted.~~

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. Section 7071.17 of the Business and Professions
2 Code is amended to read:

3 7071.17. (a) Notwithstanding any other provision of law, the
4 board shall require, as a condition precedent to accepting an
5 application for licensure, renewal, reinstatement, or to change
6 officers or other personnel of record, that an applicant, previously
7 found to have failed or refused to pay a contractor, subcontractor,
8 consumer, materials supplier, or employee based on an unsatisfied
9 final judgment, file or have on file with the board a bond sufficient
10 to guarantee payment of an amount equal to the unsatisfied final
11 judgment or judgments. The applicant shall have 90 days from the
12 date of notification by the board to file the bond or the application
13 shall become void and the applicant shall reapply for issuance,
14 reinstatement, or reactivation of a license. The board may not issue,
15 reinstate, or reactivate a license until the bond is filed with the
16 board. The bond required by this section is in addition to the
17 contractor's bond. The bond shall be on file for a minimum of one
18 year, after which the bond may be removed by submitting proof
19 of satisfaction of all debts. The applicant may provide the board
20 with a notarized copy of any accord, reached with any individual
21 holding an unsatisfied final judgment, to satisfy a debt in lieu of
22 filing the bond. The board shall include on the license application
23 for issuance, reinstatement, or reactivation, a statement, to be made
24 under penalty of perjury, as to whether there are any unsatisfied
25 judgments against the applicant on behalf of contractors,
26 subcontractors, consumers, materials suppliers, or the applicant's
27 employees. Notwithstanding any other provision of law, if it is
28 found that the applicant falsified the statement then the license
29 will be retroactively suspended to the date of issuance and the
30 license will stay suspended until the bond, satisfaction of judgment,
31 or notarized copy of any accord applicable under this section is
32 filed.

33 (b) (1) Notwithstanding any other provision of law, all licensees
34 shall notify the registrar in writing of any unsatisfied final judgment
35 imposed on the licensee. If the licensee fails to notify the registrar
36 in writing within 90 days, the license shall be automatically
37 suspended on the date that the registrar is informed, or is made
38 aware of the unsatisfied final judgment.

1 (2) (A) The suspension shall not be removed until proof of
2 satisfaction of the judgment, or in lieu thereof, a notarized copy
3 of an accord is submitted to the registrar.

4 ~~(B) Notwithstanding subparagraph (A), the suspension shall be~~
5 ~~removed if the licensee provides proof that the judgment is under~~
6 ~~appeal in a court of competent jurisdiction. The suspension shall~~
7 ~~be reinstated after the judgment has been upheld and no further~~
8 ~~appeal is sought, or all appeals are exhausted.~~

9 (3) If the licensee notifies the registrar in writing within 90 days
10 of the imposition of any unsatisfied final judgment, the licensee
11 shall, as a condition to the continual maintenance of the license,
12 file or have on file with the board a bond sufficient to guarantee
13 payment of an amount equal to all unsatisfied judgments applicable
14 under this section.

15 (4) The licensee has 90 days from date of notification by the
16 board to file the bond or at the end of the 90 days the license shall
17 be automatically suspended. In lieu of filing the bond required by
18 this section, the licensee may provide the board with a notarized
19 copy of any accord reached with any individual holding an
20 unsatisfied final judgment.

21 (c) By operation of law, failure to maintain the bond or failure
22 to abide by the accord shall result in the automatic suspension of
23 any license to which this section applies.

24 (d) A license that is suspended for failure to comply with the
25 provisions of this section can only be reinstated when proof of
26 satisfaction of all debts is made, or when a notarized copy of an
27 accord has been filed as set forth under this section.

28 (e) This section applies only with respect to an unsatisfied final
29 judgment that is substantially related to the construction activities
30 of a licensee licensed under this chapter, or to the qualifications,
31 functions, or duties of the license.

32 (f) Except as otherwise provided, this section shall not apply to
33 an applicant or licensee when the financial obligation covered by
34 this section has been discharged in a bankruptcy proceeding.

35 (g) Except as otherwise provided, the bond shall remain in full
36 force in the amount posted until the entire debt is satisfied. If, at
37 the time of renewal, the licensee submits proof of partial
38 satisfaction of the financial obligations covered by this section,
39 the board may authorize the bond to be reduced to the amount of
40 the unsatisfied portion of the outstanding judgment. When the

1 licensee submits proof of satisfaction of all debts, the bond
2 requirement may be removed.

3 (h) The board shall take the actions required by this section
4 upon notification by any party having knowledge of the outstanding
5 judgment upon a showing of proof of the judgment.

6 (i) For the purposes of this section, the term “judgment” also
7 includes any final arbitration award where the time to file a petition
8 for a trial de novo or a petition to vacate or correct the arbitration
9 award has expired, and no petition is pending.

10 (j) (1) If a judgment is entered against a licensee, then a
11 qualifying person or personnel of record of the licensee at the time
12 of the activities on which the judgment is based shall be
13 automatically prohibited from serving as a qualifying individual
14 or other personnel of record on another license until the judgment
15 is satisfied.

16 (2) The prohibition described in paragraph (1) shall cause the
17 license of any other existing renewable licensed entity with any
18 of the same personnel of record as the judgment debtor licensee
19 to be suspended until the license of the judgment debtor is
20 reinstated or until those same personnel of record disassociate
21 themselves from the renewable licensed entity.

22 ~~(3) The prohibition described in paragraph (1) shall not apply~~
23 ~~if the qualifying person or personnel of record provides proof that~~
24 ~~the judgment is under appeal in a court of competent jurisdiction.~~
25 ~~The suspension described in paragraph (2) shall be reinstated after~~
26 ~~the judgment has been upheld and no further appeal is sought, or~~
27 ~~all appeals are exhausted.~~

28 (k) For purposes of this section, a cash deposit may be submitted
29 in lieu of the bond.

30 (l) Notwithstanding subdivision (f), the failure of a licensee to
31 notify the registrar of an unsatisfied final judgment in accordance
32 with this section is cause for disciplinary action.

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CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number: AB 1284 (Dababneh)
Status/Location: Amended 09/01/17 – Senate Rules
Sponsor: Author
Subject: Financing Law: Property Assessed Clean Energy Program: Program Administrators
Code Section: Financial 22000, Sections 22001, 22007, 22010, 22101, 22101.5, 22102, 22103, 22104, 22105, 22105.3, 22106, 22107, 22109, 22151, 22152, 22153, 22154, 22155, 22156, 22157, 22159, 22161, 22162, 22163, 22164, 22168, 22169, 22700, 22701, 22706, 22712, 22714, 22716, 22753, and 22780 of, to add Sections 22003.5, 22015, 22016, 22017, 22018, 22019, 22020, 22068), and 22100.5 to, and to add Chapter 3.5 (commencing with Section 22680)

Summary:

Existing Law:

1. The California Finance Lenders Law, generally provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight.
2. The Property Assessed Clean Energy (PACE program) authorizes a public agency, by making specified findings, to authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, or energy, or water efficiency improvements that are permanently fixed to real property. Existing law authorizes a private entity to administer a PACE program on behalf of, and with the written consent of, a public agency.

This Bill:

1. Provides that beginning January 1, 2019, a program administrator who administers a PACE program on or behalf of a public agency be licensed under the California Finance Lenders Law, which is renamed to the California Financing Law.
2. Defines related terms, including:
 - (a) "PACE solicitor" means a person authorized by a program administrator to solicit a property owner to enter into an assessment contract.
 - (b) "Program administrator" means a person administering a PACE program on behalf of, and with the written consent of, a public agency. It does not include a public agency.
3. Specifies that a program administrator shall not permit a PACE solicitor to do any of the following:

- (a) Solicit a property owner to enter into an assessment contract with a program administrator unless the PACE solicitor and the program administrator comply with the requirements of this chapter and any rules adopted by the commissioner.
 - (b) Engage in any act in violation of a law related to a PACE program.
 - (c) Offer an assessment contract with terms, conditions, or disclosures that do not comply with the law.
 - (d) Offer an assessment contract that omits terms, conditions, or disclosures required by law.
4. Provides that a program administrator shall require a PACE solicitor to satisfy one of the following criteria:
- (a) Maintain in good standing a license from the Contractors State License Board.
 - (b) Maintain a registration in good standing with the Contractors' State License Board as a home improvement salesperson.
 - (c) Be exempt from, or not subject to, licensure or registration under the contractors' state license law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code).
5. Provides that a program administrator shall not enroll a PACE solicitor if the program administrator obtains information demonstrating any of the following:
- (a) A clear pattern of consumer complaints about the PACE solicitor regarding dishonesty, misrepresentations, or omissions.
 - (b) A high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with the requirements for a PACE program in the law.
 - (c) A clear pattern of failing to timely receive and respond to property owner complaints about the PACE solicitor.
6. Further provides that a program administrator shall require each PACE solicitor that solicits property owners for assessment contracts to complete six hours of education provided by the program administrator within three months of completing the program administrator's enrollment process.

Fiscal Impact for CSLB:

None.

Staff Recommendation and Comments:

SUPPORT. This bill is intended to enhance consumer protection for individuals that participate in a PACE program. CSLB has seen a significant increase in solar complaints in the last few years, and believes this may help address some of the problems identified in these complaints.

Date: September 11, 2017

AMENDED IN SENATE SEPTEMBER 12, 2017

AMENDED IN SENATE SEPTEMBER 8, 2017

AMENDED IN SENATE SEPTEMBER 1, 2017

AMENDED IN SENATE AUGUST 28, 2017

AMENDED IN SENATE AUGUST 24, 2017

AMENDED IN SENATE JUNE 14, 2017

AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1284

Introduced by Assembly Member Dababneh
(Coauthor: Assembly Member Calderon)
(Coauthor: Senator Skinner)

February 17, 2017

An act to amend, repeal, and add Section 10133.1 of the Business and Professions Code, and to amend Sections 22000, 22753, 22780 of, to amend the heading of Division 9 (commencing with Section 22000) of, to amend, repeal, and add Sections 22001, 22007, 22010, 22101, 22101.5, 22102, 22103, 22104, 22105, 22105.3, 22106, 22107, 22109, 22151, 22152, 22153, 22154, 22155, 22156, 22157, 22159, 22161, 22162, 22163, 22164, 22168, 22169, 22700, 22701, 22706, 22712, 22714, and 22716 of, to add Sections ~~4061~~, 22003.5, 22015, 22016, 22017, 22018, 22018.5, 22019, 22020, 22068, 22100.5, 22252, 22552, and 22758 to, and to add Chapter 3.5 (commencing with Section 22680) to Division 9 of, the Financial Code, relating to financial institutions *institutions, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1284, as amended, Dababneh. California Financing Law: Property Assessed Clean Energy program: program administrators.

Existing law, the California Finance Lenders Law, generally provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight. Existing law requires a person seeking to become licensed as a finance lender or broker to submit an application to the commissioner, and to comply with specified licensure requirements such as paying a fee and an annual assessment to the commissioner. Existing law requires a finance lender or broker licensee to comply with requirements related to the conduct of his or her business. Existing law exempts specified types of entities or financial instruments from regulation under the California Finance Lenders Law. Existing law authorizes the commissioner to take specified disciplinary actions against a licensee, including ordering the licensee to cease specified activity or suspending or revoking the license of the licensee.

Existing law, known commonly as a Property Assessed Clean Energy (PACE program), authorizes a public agency, by making specified findings, to authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property. Existing law requires a public agency to comply with specified requirements before permitting a property owner to participate in any program established pursuant to those provisions, including that the property owner's participation would not result in the total amount of any annual property taxes and assessments exceeding 5% of the property's market value, and that the property owner is provided with specified financial documents and other forms. Existing law authorizes a private entity to administer a PACE program on behalf of, and with the written consent of, a public agency.

Existing state law, the California Financial Information Privacy Act, prohibits a financial institution from selling, sharing, transferring, or otherwise disclosing nonpublic personal information to, or with, nonaffiliated 3rd parties without the explicit prior consent from the consumer to whom the information relates.

This bill would rename the "California Finance Lenders Law" the "California Financing Law," and would require specified criteria related to the assessment contract to be satisfied before a program administrator

approves an assessment contract for recordation by a public agency, including that all property taxes on the applicable property be current, the applicable property to not have specified debt recorded, that the property owner be current on specified debt and to have not been a party to a bankruptcy proceeding within a specified time, that the financing of the assessment, as well as the total value of all debt on the property, not exceed a specified amount, and that the terms of the assessment contract not exceed certain limitations.

This bill would, commencing on April 1, 2018, prohibit a program administrator from approving an assessment contract for funding and recording by a public agency unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the PACE assessments, subject to specified requirements and procedures. The bill would require a program administrator to comply with the requirements of the California Financial Information Privacy Act.

The bill would, commencing on January 1, 2019, require a program administrator that administers a PACE program on or behalf of a public agency to be licensed by the commissioner under the California Financing Law. The bill would require a program administrator to comply with licensure requirements that are similar to those of a finance lender or broker as described above. The bill would require a program administrator licensee to comply with similar requirements to those of finance lenders and brokers as to the conduct of his or her business, including display of his or her license, location of his or her business, maintenance and preservation of his or her records, reporting, including filing a specified annual report under oath, prohibiting making false or misleading statements, and advertising. By expanding the crime of perjury, this bill would impose state-mandated local program. The bill would provide that the exemptions described above do not apply to a program administrator.

The bill would require a program administrator to establish and maintain a process for the enrollment of a PACE solicitor and a PACE solicitor agent, including requiring a PACE solicitor or a PACE solicitor agent to meet specified minimum background checks, and would prohibit a program administrator from enrolling a PACE solicitor or a PACE solicitor agent if the program administrator makes specified findings. The bill would require a program administrator to establish and maintain a process to promote and evaluate the compliance of a PACE solicitor and a PACE solicitor agent with applicable law, and to

establish and maintain a process to cancel the enrollment of a PACE solicitor or PACE solicitor agents who fail to meet minimum qualifications. The bill would require a program administrator to establish and maintain a training program for PACE solicitor agents, in accordance with certain requirements.

The bill would authorize the commissioner to take disciplinary actions against a program administrator that are similar to the disciplinary provisions described above for a finance lender or broker, including authorizing the commissioner to conduct an examination under oath, and would subject a program administrator to the enforcement authority of the commissioner for specified violations. The bill would authorize the commissioner, if during the course of an inspection, examination, or investigation of a program administrator the commissioner has cause to believe that the program administrator, PACE solicitor, or PACE solicitor agent may have committed a violation of the California Financing Law or that certain conditions are met, to take specified actions to investigate a PACE solicitor or a PACE solicitor agent, including authorizing the commissioner to conduct an examination under oath. The bill would authorize the commissioner to take disciplinary actions against a PACE solicitor or a PACE solicitor agent that violates any provision of the California Financing Law, subject to certain requirements and procedures. The bill would provide that if the person subject to an investigation under these provisions complies with the commissioner's demands, or otherwise reaches a mutually agreeable resolution of any issues, then any examinations and correspondence related to that investigation is confidential.

This bill would require a program administrator to submit to the commissioner information beneficial to evaluating various aspects of the PACE program to be included in a specified annual report, as provided. The bill would authorize the commissioner, by rule, to require a program administrator to use a real-time registry or database system for tracking PACE assessments and the bill would require costs associated with the real-time registry or database system to be apportioned among licensed program administrators, as specified.

The bill would include findings that the changes proposed by this bill address a matter of statewide concern and is not a municipal affair, and shall therefore apply equally to all cities, including charter cities.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the

interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 10133.1 of the Business and Professions
2 Code is amended to read:
3 10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section
4 10131.1, Article 5 (commencing with Section 10230), and Article
5 7 (commencing with Section 10240) of this code and Section
6 1695.13 of the Civil Code do not apply to any of the following:
7 (1) Any person or employee thereof doing business under any
8 law of this state, any other state, or the United States relating to
9 banks, trust companies, savings and loan associations, industrial
10 loan companies, pension trusts, credit unions, or insurance
11 companies.
12 (2) Any nonprofit cooperative association organized under
13 Chapter 1 (commencing with Section 54001) of Division 20 of the
14 Food and Agricultural Code, in loaning or advancing money in
15 connection with any activity mentioned therein.
16 (3) Any corporation, association, syndicate, joint stock company,
17 or partnership engaged exclusively in the business of marketing
18 agricultural, horticultural, viticultural, dairy, livestock, poultry, or
19 bee products on a cooperative nonprofit basis, in loaning or
20 advancing money to the members thereof or in connection with
21 any business of that type.
22 (4) Any corporation securing money or credit from any federal
23 intermediate credit bank organized and existing pursuant to the
24 provisions of an act of Congress entitled the "Agricultural Credits
25 Act of 1923," in loaning or advancing money or credit so secured.

1 (5) Any person licensed to practice law in this state, not actively
2 and principally engaged in the business of negotiating loans secured
3 by real property, when that person renders services in the course
4 of his or her practice as an attorney at law, and the disbursements
5 of that person, whether paid by the borrower or other person, are
6 not charges or costs and expenses regulated by or subject to the
7 limitations of Article 7 (commencing with Section 10240), and
8 the fees and disbursements are not shared, directly or indirectly,
9 with the person negotiating the loan or the lender.

10 (6) Any person licensed as a finance lender when acting under
11 the authority of that license.

12 (7) Any cemetery authority as defined by Section 7018 of the
13 Health and Safety Code, that is authorized to do business in this
14 state or its authorized agent.

15 (8) Any person authorized in writing by a savings institution to
16 act as an agent of that institution, as authorized by Section 6520
17 of the Financial Code or comparable authority of the Office of the
18 Comptroller of the Currency of the United States Department of
19 the Treasury by its regulations, when acting under the authority
20 of that written authorization.

21 (9) Any person who is licensed as a securities broker or
22 securities dealer under any law of this state, or of the United States,
23 or any employee, officer, or agent of that person, if that person,
24 employee, officer, or agent is acting within the scope of authority
25 granted by that license in connection with a transaction involving
26 the offer, sale, purchase, or exchange of a security representing an
27 ownership interest in a pool of promissory notes secured directly
28 or indirectly by liens on real property, which transaction is subject
29 to any law of this state or the United States regulating the offer or
30 sale of securities.

31 (10) Any person licensed as a residential mortgage lender or
32 servicer when acting under the authority of that license.

33 (11) Any organization that has been approved by the United
34 States Department of Housing and Urban Development pursuant
35 to Section 106(a)(1)(iii) of the federal Housing and Urban
36 Development Act of 1968 (12 U.S.C. Sec. 1701x), to provide
37 counseling services, or an employee of such an organization, when
38 those services are provided at no cost to the borrower and are in
39 connection with the modification of the terms of a loan secured

1 directly or collaterally by a lien on residential real property
2 containing four or fewer dwelling units.

3 (b) Persons described in paragraph (1), (2), or (3), as follows,
4 are exempt from the provisions of subdivisions (d) and (e) of
5 Section 10131 or Section 10131.1 with respect to the collection
6 of payments or performance of services for lenders or on notes of
7 owners in connection with loans secured directly or collaterally
8 by liens on real property:

9 (1) The person makes collections on 10 or less of those loans,
10 or in amounts of forty thousand dollars (\$40,000) or less, in any
11 calendar year.

12 (2) The person is a corporation licensed as an escrow agent
13 under Division 6 (commencing with Section 17000) of the
14 Financial Code and the payments are deposited and maintained in
15 the escrow agent's trust account.

16 (3) An employee of a real estate broker who is acting as the
17 agent of a person described in paragraph (4) of subdivision (b) of
18 Section 10232.4.

19 For purposes of this subdivision, performance of services does
20 not include soliciting borrowers, lenders, or purchasers for, or
21 negotiating, loans secured directly or collaterally by a lien on real
22 property.

23 (c) (1) Subdivision (d) of Section 10131 does not apply to an
24 employee of a real estate broker who, on behalf of the broker,
25 assists the broker in meeting the broker's obligations to its
26 customers in residential mortgage loan transactions, as defined in
27 Section 50003 of the Financial Code, where the lender is an
28 institutional lender, as defined in Section 50003 of the Financial
29 Code, provided the employee does not participate in any
30 negotiations occurring between the principals.

31 (2) A broker shall exercise reasonable supervision and control
32 over the activities of nonlicensed employees acting under this
33 subdivision, and shall comply with Section 10163 for each location
34 where the nonlicensed persons are employed.

35 This section does not restrict the ability of the commissioner to
36 discipline a broker or corporate broker licensee or its designated
37 officer, or both the corporate broker licensee and its designated
38 officer, for misconduct of a nonlicensed employee acting under
39 this subdivision, or, pursuant to Section 10080, to adopt, amend,
40 or repeal rules or regulations governing the employment or

1 supervision of an employee who is a nonlicensed person as
2 described in this subdivision.

3 This section shall remain in effect only until January 1, 2019,
4 and as of that date is repealed.

5 SEC. 2. Section 10133.1 is added to the Business and
6 Professions Code, to read:

7 10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section
8 10131.1, Article 5 (commencing with Section 10230), and Article
9 7 (commencing with Section 10240) of this code and Section
10 1695.13 of the Civil Code do not apply to any of the following:

11 (1) Any person or employee thereof doing business under any
12 law of this state, any other state, or the United States relating to
13 banks, trust companies, savings and loan associations, industrial
14 loan companies, pension trusts, credit unions, or insurance
15 companies.

16 (2) Any nonprofit cooperative association organized under
17 Chapter 1 (commencing with Section 54001) of Division 20 of the
18 Food and Agricultural Code, in loaning or advancing money in
19 connection with any activity mentioned therein.

20 (3) Any corporation, association, syndicate, joint stock company,
21 or partnership engaged exclusively in the business of marketing
22 agricultural, horticultural, viticultural, dairy, livestock, poultry, or
23 bee products on a cooperative nonprofit basis, in loaning or
24 advancing money to the members thereof or in connection with
25 any business of that type.

26 (4) Any corporation securing money or credit from any federal
27 intermediate credit bank organized and existing pursuant to the
28 provisions of an act of Congress entitled the "Agricultural Credits
29 Act of 1923," in loaning or advancing money or credit so secured.

30 (5) Any person licensed to practice law in this state, not actively
31 and principally engaged in the business of negotiating loans secured
32 by real property, when that person renders services in the course
33 of his or her practice as an attorney at law, and the disbursements
34 of that person, whether paid by the borrower or other person, are
35 not charges or costs and expenses regulated by or subject to the
36 limitations of Article 7 (commencing with Section 10240), and
37 the fees and disbursements are not shared, directly or indirectly,
38 with the person negotiating the loan or the lender.

39 (6) Any person licensed as a finance lender when acting under
40 the authority of that license.

1 (7) Any cemetery authority as defined by Section 7018 of the
2 Health and Safety Code, that is authorized to do business in this
3 state or its authorized agent.

4 (8) Any person authorized in writing by a savings institution to
5 act as an agent of that institution, as authorized by Section 6520
6 of the Financial Code or comparable authority of the Office of the
7 Comptroller of the Currency of the United States Department of
8 the Treasury by its regulations, when acting under the authority
9 of that written authorization.

10 (9) Any person who is licensed as a securities broker or
11 securities dealer under any law of this state, or of the United States,
12 or any employee, officer, or agent of that person, if that person,
13 employee, officer, or agent is acting within the scope of authority
14 granted by that license in connection with a transaction involving
15 the offer, sale, purchase, or exchange of a security representing an
16 ownership interest in a pool of promissory notes secured directly
17 or indirectly by liens on real property, which transaction is subject
18 to any law of this state or the United States regulating the offer or
19 sale of securities.

20 (10) Any person licensed as a residential mortgage lender or
21 servicer when acting under the authority of that license.

22 (11) Any organization that has been approved by the United
23 States Department of Housing and Urban Development pursuant
24 to Section 106(a)(1)(iii) of the federal Housing and Urban
25 Development Act of 1968 (12 U.S.C. Sec. 1701x), to provide
26 counseling services, or an employee of such an organization, when
27 those services are provided at no cost to the borrower and are in
28 connection with the modification of the terms of a loan secured
29 directly or collaterally by a lien on residential real property
30 containing four or fewer dwelling units.

31 (12) Any person licensed as a PACE program administrator
32 when acting under the authority of that license.

33 (13) A PACE solicitor, when enrolled by a person licensed as
34 a program administrator and acting pursuant to an agreement with
35 that program administrator licensee.

36 (14) A PACE solicitor agent, when enrolled by a person licensed
37 as a program administrator and acting pursuant to an agreement
38 between a PACE solicitor and that program administrator licensee.

39 (b) Persons described in paragraph (1), (2), or (3), as follows,
40 are exempt from the provisions of subdivisions (d) and (e) of

1 Section 10131 or Section 10131.1 with respect to the collection
2 of payments or performance of services for lenders or on notes of
3 owners in connection with loans secured directly or collaterally
4 by liens on real property:

5 (1) The person makes collections on 10 or less of those loans,
6 or in amounts of forty thousand dollars (\$40,000) or less, in any
7 calendar year.

8 (2) The person is a corporation licensed as an escrow agent
9 under Division 6 (commencing with Section 17000) of the
10 Financial Code and the payments are deposited and maintained in
11 the escrow agent's trust account.

12 (3) An employee of a real estate broker who is acting as the
13 agent of a person described in paragraph (4) of subdivision (b) of
14 Section 10232.4.

15 For purposes of this subdivision, performance of services does
16 not include soliciting borrowers, lenders, or purchasers for, or
17 negotiating, loans secured directly or collaterally by a lien on real
18 property.

19 (c) (1) Subdivision (d) of Section 10131 does not apply to an
20 employee of a real estate broker who, on behalf of the broker,
21 assists the broker in meeting the broker's obligations to its
22 customers in residential mortgage loan transactions, as defined in
23 Section 50003 of the Financial Code, where the lender is an
24 institutional lender, as defined in Section 50003 of the Financial
25 Code, provided the employee does not participate in any
26 negotiations occurring between the principals.

27 (2) A broker shall exercise reasonable supervision and control
28 over the activities of nonlicensed employees acting under this
29 subdivision, and shall comply with Section 10163 for each location
30 where the nonlicensed persons are employed.

31 This section does not restrict the ability of the commissioner to
32 discipline a broker or corporate broker licensee or its designated
33 officer, or both the corporate broker licensee and its designated
34 officer, for misconduct of a nonlicensed employee acting under
35 this subdivision, or, pursuant to Section 10080, to adopt, amend,
36 or repeal rules or regulations governing the employment or
37 supervision of an employee who is a nonlicensed person as
38 described in this subdivision.

39 This section shall become operative on January 1, 2019.

40 ~~SEC. 3. Section 4061 is added to the Financial Code, to read:~~

1 ~~4061. (a) A program administrator shall comply with all~~
2 ~~requirements of this division that are applicable to a financial~~
3 ~~institution. Unless the context clearly requires otherwise, whenever~~
4 ~~the term “financial institution” appears in any code in this division,~~
5 ~~it shall also be construed to refer to a program administrator. Unless~~
6 ~~the context clearly requires otherwise, whenever the term~~
7 ~~“consumer” appears in any code in this division, it shall also be~~
8 ~~construed to refer to a property owner, as that term is defined in~~
9 ~~Section 22018.5.~~

10 ~~(b) For purposes of this section, program administrator shall~~
11 ~~mean a program administrator licensee under the California~~
12 ~~Financing Law.~~

13 ~~(c) This section shall become operative on April 1, 2018.~~

14 ~~SEC. 4.~~

15 ~~SEC. 3.~~ The heading of Division 9 (commencing with Section
16 22000) of the Financial Code is amended to read:

17
18 DIVISION 9. CALIFORNIA FINANCING LAW

19
20 ~~SEC. 5.~~

21 ~~SEC. 4.~~ Section 22000 of the Financial Code is amended to
22 read:

23 22000. This division is known and may be cited as the
24 “California Financing Law.”

25 ~~SEC. 6.~~

26 ~~SEC. 5.~~ Section 22001 of the Financial Code is amended to
27 read:

28 22001. (a) This division shall be liberally construed and
29 applied to promote its underlying purposes and policies, which
30 are:

31 (1) To ensure an adequate supply of credit to borrowers in this
32 state.

33 (2) To simplify, clarify, and modernize the law governing loans
34 made by finance lenders.

35 (3) To foster competition among finance lenders.

36 (4) To protect borrowers against unfair practices by some
37 lenders, having due regard for the interests of legitimate and
38 scrupulous lenders.

39 (5) To permit and encourage the development of fair and
40 economically sound lending practices.

1 (6) To encourage and foster a sound economic climate in this
2 state.

3 (b) Consumer loans, as defined in Sections 22203 and 22204,
4 are subject to this chapter, Chapter 2 (commencing with Section
5 22200), Article 1 (commencing with Section 22700) of Chapter
6 4, and Article 2 (commencing with Section 22750) of Chapter 4.

7 (c) Commercial loans, as defined in Section 22502, are subject
8 to this chapter, Chapter 3 (commencing with Section 22500),
9 Article 1 (commencing with Section 22700) of Chapter 4, and
10 Article 3 (commencing with Section 22780) of Chapter 4.

11 (d) This section shall remain in effect only until January 1, 2019,
12 and as of that date is repealed.

13 ~~SEC. 7.~~

14 *SEC. 6.* Section 22001 is added to the Financial Code, to read:
15 22001. (a) This division shall be liberally construed and
16 applied to promote its underlying purposes and policies, which
17 are:

18 (1) To ensure an adequate supply of credit to borrowers in this
19 state.

20 (2) To simplify, clarify, and modernize the law governing loans
21 made by finance lenders.

22 (3) To foster competition among finance lenders.

23 (4) To protect borrowers against unfair practices by some
24 lenders, having due regard for the interests of legitimate and
25 scrupulous lenders.

26 (5) To permit and encourage the development of fair and
27 economically sound lending practices.

28 (6) To encourage and foster a sound economic climate in this
29 state.

30 (7) To protect property owners from deceptive and misleading
31 practices that threaten the efficacy and viability of property
32 assessed clean energy financing programs.

33 (b) Consumer loans, as defined in Sections 22203 and 22204,
34 are subject to this chapter, Chapter 2 (commencing with Section
35 22200), Article 1 (commencing with Section 22700) of Chapter
36 4, and Article 2 (commencing with Section 22750) of Chapter 4.

37 (c) Commercial loans, as defined in Section 22502, are subject
38 to this chapter, Chapter 3 (commencing with Section 22500),
39 Article 1 (commencing with Section 22700) of Chapter 4, and
40 Article 3 (commencing with Section 22780) of Chapter 4.

(d) A program administrator, as defined in Section 22018, is subject to this chapter, Chapter 3.5 (commencing with Section 22680), and Article 1 (commencing with Section 22700) of Chapter 4.

(e) This section shall become operative on January 1, 2019.

~~SEC. 8.~~

SEC. 7. Section 22003.5 is added to the Financial Code, to read:

22003.5. "Assessment contract" means an agreement entered into between all property owners of record on real property and a public agency in which, for voluntary contractual assessments imposed on the real property, the public agency provides a PACE assessment for the installation of one or more efficiency improvements on the real property in accordance with a PACE program, specified in paragraph (2) of subdivision (a) of Section 5898.20 of the Streets and Highways Code, or Section 5899 or 5899.3 of the Streets and Highways Code, or a special tax described in Section 53328.1 of the Government Code.

~~SEC. 9.~~

SEC. 8. Section 22007 of the Financial Code is amended to read:

22007. (a) "Licensee" means any finance lender or broker who receives a license in accordance with this division.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 10.~~

SEC. 9. Section 22007 is added to the Financial Code, to read:

22007. (a) "Licensee" means any finance lender, broker, or program administrator who receives a license in accordance with this division.

(b) This section shall become operative on January 1, 2019.

~~SEC. 11.~~

SEC. 10. Section 22010 of the Financial Code is amended to read:

22010. (a) "Finance lender" and "broker" do not include employees regularly employed at the location specified in the license of the finance lender or broker, except that an employee, when acting within the scope of his or her employment, shall be exempt from any other law from which his or her employer is exempt.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 12.~~

SEC. 11. Section 22010 is added to the Financial Code, to read:

22010. (a) “Finance lender,” “broker,” and “program administrator” do not include employees regularly employed at the location specified in the license of the finance lender, broker, or program administrator, except that an employee, when acting within the scope of his or her employment, shall be exempt from any other law from which his or her employer is exempt.

(b) This section shall become operative on January 1, 2019.

~~SEC. 13.~~

SEC. 12. Section 22015 is added to the Financial Code, to read:

22015. “PACE assessment” means a voluntary contractual assessment, voluntary special tax, or special tax, as described in subdivisions (a), (b), and (c) of Section 26054 of the Public Resources Code.

~~SEC. 14.~~

SEC. 13. Section 22016 is added to the Financial Code, to read:

22016. “PACE program” means a program in which financing is provided for the installation of efficiency improvements on real property and funded through the use of property assessments, as well as other program components defined in this section, established pursuant to any of the following:

(a) Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highways Code.

(b) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) A charter city’s constitutional authority under Section 5 of Article XI of the California Constitution.

~~SEC. 15.~~

SEC. 14. Section 22017 is added to the Financial Code, to read:

22017. (a) “PACE solicitor” means a person authorized by a program administrator to solicit a property owner to enter into an assessment contract.

(b) “PACE solicitor agent” means an individual who is employed or retained by, and acts on behalf of, a PACE solicitor to solicit a property owner to enter into an assessment contract.

(c) “PACE solicitor” and “PACE solicitor agent” do not include any of the following:

(1) A person employed by a program administrator.

(2) A person, including a home improvement contractor or subcontractor, who does not solicit property owners to enter into assessment contracts.

(3) A person who performs purely administrative or clerical tasks.

(4) A person who advertises a PACE program, if the content of the advertising is created, prepared, or approved by a program administrator, and advertising ~~to~~ *is* subject to, and *in* compliance with this division.

(5) A person who obtains information regarding prospective applicants for PACE financing, or who provides to a program administrator information regarding prospective applicants for PACE financing, if such information was not obtained in connection with advertising *or soliciting* a PACE program.

~~SEC. 16.~~

SEC. 15. Section 22018 is added to the Financial Code, to read:

22018. “Program administrator” means a person administering a PACE program on behalf of, and with the written consent of, a public agency. “Program administrator” does not include a public agency.

(a) For purposes of this division, “program administrator” does not include a person who meets both of the following conditions:

(1) The person does not administer a PACE program that provides financing for the installation of efficiency improvements on residential ~~property~~. *property with four or fewer units*.

(2) The person does not administer a PACE program that provides financing for the installation of efficiency improvements on ~~real-contructual assessments on~~ property with a market value of less than one million dollars (\$1,000,000).

~~SEC. 17.~~

SEC. 16. Section 22018.5 is added to the Financial Code, to read:

22018.5. “Property owner” means all property owners of record on the property subject to the PACE assessment.

~~SEC. 18.~~

SEC. 17. Section 22019 is added to the Financial Code, to read:

1 22019. “Efficiency improvement” means one or more
2 permanent improvements fixed to real property financed through
3 a PACE assessment.

4 ~~SEC. 19.~~

5 *SEC. 18.* Section 22020 is added to the Financial Code, to read:

6 22020. “Public agency” means a city, including a charter city,
7 county, city and county, municipal utility district, community
8 services district, community facilities district, joint powers
9 authority, sanitary district, sanitation district, or water district, as
10 defined in Section 20200 of the Water Code, that has established
11 or participates in a PACE program, and utilizes a program
12 administrator.

13 ~~SEC. 20.~~

14 *SEC. 19.* Section 22068 is added to the Financial Code, to read:

15 22068. (a) The exemptions and exclusions in this article are
16 not applicable to a person engaged in business as a program
17 administrator or a PACE solicitor.

18 (b) This section shall become operative on January 1, 2019.

19 ~~SEC. 21.~~

20 *SEC. 20.* Section 22100.5 is added to the Financial Code, to
21 read:

22 22100.5. (a) A person shall not engage in the business of a
23 program administrator without obtaining a license from the
24 commissioner.

25 (b) This section shall become operative on January 1, 2019.

26 ~~SEC. 22.~~

27 *SEC. 21.* Section 22101 of the Financial Code is amended to
28 read:

29 22101. (a) An application for a license as a finance lender or
30 broker under this division shall be in the form and contain the
31 information that the commissioner may by rule or order require
32 and shall be filed upon payment of the fee specified in Section
33 22103.

34 (b) Notwithstanding any other law, an applicant who does not
35 currently hold a license as a finance lender or broker under this
36 division shall furnish, with his or her application, a full set of
37 fingerprints and related information for purposes of the
38 commissioner conducting a criminal history record check. The
39 commissioner shall obtain and receive criminal history information

1 from the Department of Justice and the Federal Bureau of
2 Investigation pursuant to Section 22101.5.

3 (c) This section shall not be construed to prevent a licensee from
4 engaging in the business of a finance lender through a subsidiary
5 corporation if the subsidiary corporation is licensed pursuant to
6 this division.

7 (d) For purposes of this section, “subsidiary corporation” means
8 a corporation that is wholly owned by a licensee.

9 (e) A new application shall not be required for a change in the
10 address of an existing location previously licensed under this
11 division. However, the licensee shall comply with the requirements
12 of Section 22153.

13 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
14 commissioner may by rule require an application to be made
15 through the Nationwide Mortgage Licensing System and Registry,
16 and may require fees, fingerprints, financial statements, supporting
17 documents, changes of address, and any other information, and
18 amendments or modifications thereto, to be submitted in the same
19 manner.

20 (g) Notwithstanding any other law, the commissioner may by
21 rule or order prescribe circumstances under which to accept
22 electronic records or electronic signatures. This section does not
23 require the commissioner to accept electronic records or electronic
24 signatures.

25 (h) For purposes of this section, the following terms have the
26 following meanings:

27 (1) “Electronic record” means an initial license application, or
28 material modification of that license application, and any other
29 record created, generated, sent, communicated, received, or stored
30 by electronic means. “Electronic records” also includes, but is not
31 limited to, all of the following:

32 (A) An application, amendment, supplement, and exhibit, filed
33 for any license, consent, or other authority.

34 (B) A financial statement, a report, or advertising.

35 (C) An order, license, consent, or other authority.

36 (D) A notice of public hearing, accusation, and statement of
37 issues in connection with any application, license, consent, or other
38 authority.

39 (E) A proposed decision of a hearing officer and a decision of
40 the commissioner.

1 (F) The transcripts of a hearing and correspondence between a
2 party and the commissioner directly relating to the record.

3 (G) A release, newsletter, interpretive opinion, determination,
4 or specific ruling.

5 (H) Correspondence between a party and the commissioner
6 directly relating to any document listed in subparagraphs (A) to
7 (G), inclusive.

8 (2) “Electronic signature” means an electronic sound, symbol,
9 or process attached to or logically associated with an electronic
10 record and executed or adopted by a person with the intent to sign
11 the electronic record.

12 (i) The Legislature finds and declares that the Department of
13 Business Oversight has continuously implemented methods to
14 accept records filed electronically, and is encouraged to continue
15 to expand its use of electronic filings to the extent feasible, as
16 budget, resources, and equipment are made available to accomplish
17 that goal.

18 (j) This section shall remain in effect only until January 1, 2019,
19 and as of that date is repealed.

20 ~~SEC. 23.~~

21 *SEC. 22.* Section 22101 is added to the Financial Code, to read:

22 22101. (a) An application for a license as a finance lender,
23 broker, or program administrator under this division shall be in
24 the form and contain the information that the commissioner may
25 by rule or order require and shall be filed upon payment of the fee
26 specified in Section 22103.

27 (b) Notwithstanding any other law, an applicant who does not
28 currently hold a license as a finance lender, broker, or program
29 administrator under this division shall furnish, with his or her
30 application, a full set of fingerprints and related information for
31 purposes of the commissioner conducting a criminal history record
32 check. The commissioner shall obtain and receive criminal history
33 information from the Department of Justice and the Federal Bureau
34 of Investigation pursuant to Section 22101.5.

35 (c) This section does not prevent a licensee from engaging in
36 the business of a finance lender *or program administrator* through
37 a subsidiary corporation if the subsidiary corporation is licensed
38 pursuant to this division.

39 (d) For purposes of this section, “subsidiary corporation” means
40 a corporation that is wholly owned by a licensee.

1 (e) A new application shall not be required for a change in the
2 address of an existing location previously licensed under this
3 division. However, the licensee shall comply with the requirements
4 of Section 22153.

5 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
6 commissioner may by rule require an application to be made
7 through the Nationwide Mortgage Licensing System and Registry,
8 and may require fees, fingerprints, financial statements, supporting
9 documents, changes of address, and any other information, and
10 amendments or modifications thereto, to be submitted in the same
11 manner.

12 (g) Notwithstanding any other law, the commissioner may by
13 rule or order prescribe circumstances under which to accept
14 electronic records or electronic signatures. This section does not
15 require the commissioner to accept electronic records or electronic
16 signatures.

17 (h) For purposes of this section, the following terms have the
18 following meanings:

19 (1) "Electronic record" means an initial license application, or
20 material modification of that license application, and any other
21 record created, generated, sent, communicated, received, or stored
22 by electronic means. "Electronic records" also includes, but is not
23 limited to, all of the following:

24 (A) An application, amendment, supplement, and exhibit, filed
25 for any license, consent, or other authority.

26 (B) A financial statement, a report, or advertising.

27 (C) An order, license, consent, or other authority.

28 (D) A notice of public hearing, accusation, and statement of
29 issues in connection with any application, license, consent, or other
30 authority.

31 (E) A proposed decision of a hearing officer and a decision of
32 the commissioner.

33 (F) The transcripts of a hearing and correspondence between a
34 party and the commissioner directly relating to the record.

35 (G) A release, newsletter, interpretive opinion, determination,
36 or specific ruling.

37 (H) Correspondence between a party and the commissioner
38 directly relating to any document listed in subparagraphs (A) to
39 (G), inclusive.

(2) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(i) The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

(j) This section shall become operative on January 1, 2019.

~~SEC. 24.~~

SEC. 23. Section 22101.5 of the Financial Code is amended to read:

22101.5. (a) The commissioner shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all finance lender and broker license candidates, as defined by subdivision (a) of Section 22101, for purposes of obtaining information as to the existence and content of a record of state or federal convictions, state or federal arrests, and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the commissioner.

(c) The Department of Justice shall provide a response to the commissioner pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(d) The commissioner shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for license candidates described in subdivision (a).

(e) The Department of Justice shall charge a fee sufficient to cover the costs of processing the requests pursuant to this section.

1 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
2 commissioner may by rule require fingerprints submitted by an
3 applicant to be submitted to the Nationwide Mortgage Licensing
4 System and Registry in addition to the Department of Justice.

5 (g) This section shall remain in effect only until January 1, 2019,
6 and as of that date is repealed.

7 ~~SEC. 25.~~

8 *SEC. 24.* Section 22101.5 is added to the Financial Code, to
9 read:

10 22101.5. (a) The commissioner shall submit to the Department
11 of Justice fingerprint images and related information required by
12 the Department of Justice of all finance lender, broker, or program
13 administrator license candidates, as defined by subdivision (a) of
14 Section 22101, for purposes of obtaining information as to the
15 existence and content of a record of state or federal convictions,
16 state or federal arrests, and information as to the existence and
17 content of a record of state or federal arrests for which the
18 Department of Justice establishes that the person is free on bail or
19 on his or her own recognizance pending trial or appeal.

20 (b) When received, the Department of Justice shall forward to
21 the Federal Bureau of Investigation requests for federal summary
22 criminal history information received pursuant to this section. The
23 Department of Justice shall review the information returned from
24 the Federal Bureau of Investigation and compile and disseminate
25 a response to the commissioner.

26 (c) The Department of Justice shall provide a response to the
27 commissioner pursuant to paragraph (1) of subdivision (p) of
28 Section 11105 of the Penal Code.

29 (d) The commissioner shall request from the Department of
30 Justice subsequent arrest notification service, as provided pursuant
31 to Section 11105.2 of the Penal Code, for license candidates
32 described in subdivision (a).

33 (e) The Department of Justice shall charge a fee sufficient to
34 cover the costs of processing the requests pursuant to this section.

35 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
36 commissioner may by rule require fingerprints submitted by an
37 applicant to be submitted to the Nationwide Mortgage Licensing
38 System and Registry in addition to the Department of Justice.

39 (g) This section shall become operative on January 1, 2019.

1 ~~SEC. 26.~~

2 *SEC. 25.* Section 22102 of the Financial Code is amended to
3 read:

4 22102. (a) A finance lender or broker licensee seeking to
5 engage in business at a new location shall submit an application
6 for a branch office license to the commissioner at least 10 days
7 before engaging in business at a new location and pay the fee
8 required by Section 22103. The commissioner may require an
9 applicant seeking to engage in business at a new location to submit
10 its application, or parts thereof, through the Nationwide Mortgage
11 Licensing System and Registry.

12 (b) The licensee may engage in business at the new location 10
13 days after the date of submission of a branch office application.

14 (c) (1) The commissioner shall approve or deny the person
15 responsible for the lending activity at the new location in
16 accordance with Section 22109, and shall notify the licensee of
17 this decision within 90 days of the date of receipt of the application.

18 (2) If the commissioner denies the application, the licensee shall,
19 within 10 days of the date of receipt of notification of the
20 commissioner's denial, submit a new application to the
21 commissioner designating a different person responsible for the
22 lending activity at the new location. The commissioner shall
23 approve or deny the different person as provided in paragraph (1).

24 (d) A licensee shall not engage in business at a new location in
25 a name other than a name approved by the commissioner.

26 (e) The commissioner may adopt regulations to implement the
27 requirements of this section.

28 (f) A branch office license to engage in business at a new
29 location shall be issued in accordance with this section. A change
30 of street address of a place of business designated in a license shall
31 be made in accordance with Section 22153 and shall not constitute
32 a new location subject to the requirements of this section.

33 (g) This section shall remain in effect only until January 1, 2019,
34 and as of that date is repealed.

35 ~~SEC. 27.~~

36 *SEC. 26.* Section 22102 is added to the Financial Code, to read:

37 22102. (a) A finance lender, broker, or program administrator
38 licensee seeking to engage in business at a new location shall
39 submit an application for a branch office license to the
40 commissioner at least 10 days before engaging in business at a

1 new location and pay the fee required by Section 22103. The
2 commissioner may require an applicant seeking to engage in
3 business at a new location to submit its application, or parts thereof,
4 through the Nationwide Mortgage Licensing System and Registry.

5 (b) The licensee may engage in business at the new location 10
6 days after the date of submission of a branch office application.

7 (c) (1) The commissioner shall approve or deny the person
8 responsible for the lending activity at the new location in
9 accordance with Section 22109, and shall notify the licensee of
10 this decision within 90 days of the date of receipt of the application.

11 (2) If the commissioner denies the application, the licensee shall,
12 within 10 days of the date of receipt of notification of the
13 commissioner's denial, submit a new application to the
14 commissioner designating a different person responsible for the
15 lending activity at the new location. The commissioner shall
16 approve or deny the different person as provided in paragraph (1).

17 (d) A licensee shall not engage in business at a new location in
18 a name other than a name approved by the commissioner.

19 (e) The commissioner may adopt regulations to implement the
20 requirements of this section.

21 (f) A branch office license to engage in business at a new
22 location shall be issued in accordance with this section. A change
23 of street address of a place of business designated in a license shall
24 be made in accordance with Section 22153 and shall not constitute
25 a new location subject to the requirements of this section.

26 (g) This section shall become operative on January 1, 2019.

27 ~~SEC. 28.~~

28 *SEC. 27.* Section 22103 of the Financial Code is amended to
29 read:

30 22103. (a) At the time of filing the application for a finance
31 lender, broker, or branch office license, the applicant shall pay to
32 the commissioner the sum of one hundred dollars (\$100) as a fee
33 for investigating the application, plus the cost of fingerprint
34 processing and the criminal history record check under Section
35 22101.5, and two hundred dollars (\$200) as an application fee.
36 The investigation fee, including the amount for the criminal history
37 record check, and the application fee are not refundable if an
38 application is denied or withdrawn.

39 (b) This section shall remain in effect only until January 1, 2019,
40 and as of that date is repealed.

1 ~~SEC. 29.~~

2 *SEC. 28.* Section 22103 is added to the Financial Code, to read:

3 22103. (a) At the time of filing the application for a finance
4 lender, broker, program administrator, or branch office license,
5 the applicant shall pay to the commissioner the sum of one hundred
6 dollars (\$100) as a fee for investigating the application, plus the
7 cost of fingerprint processing and the criminal history record check
8 under Section 22101.5, and two hundred dollars (\$200) as an
9 application fee. The investigation fee, including the amount for
10 the criminal history record check, and the application fee are not
11 refundable if an application is denied or withdrawn.

12 (b) This section shall become operative on January 1, 2019.

13 ~~SEC. 30.~~

14 *SEC. 29.* Section 22104 of the Financial Code is amended to
15 read:

16 22104. (a) The applicant shall file with the application for a
17 finance lender or broker license financial statements prepared in
18 accordance with generally accepted accounting principles and
19 acceptable to the commissioner that indicate a net worth of at least
20 twenty-five thousand dollars (\$25,000). Except as provided in
21 subdivisions (b) and (c), a licensee shall maintain a net worth of
22 at least twenty-five thousand dollars (\$25,000) at all times.

23 (b) A licensed finance lender or broker, that employs one or
24 more mortgage loan originators and that makes residential
25 mortgage loans, shall continuously maintain a minimum net worth
26 of at least two hundred fifty thousand dollars (\$250,000).

27 (c) A licensed finance broker, that employs one or more
28 mortgage loan originators and that arranges, but does not make,
29 residential mortgage loans, shall continuously maintain a minimum
30 net worth of at least fifty thousand dollars (\$50,000).

31 (d) The commissioner may promulgate rules or regulations with
32 respect to the requirements for minimum net worth, as are
33 necessary to accomplish the purposes of this division and comply
34 with the SAFE Act.

35 (e) This section shall remain in effect only until January 1, 2019,
36 and as of that date is repealed.

37 ~~SEC. 31.~~

38 *SEC. 30.* Section 22104 is added to the Financial Code, to read:

39 22104. (a) The applicant shall file with the application for a
40 finance lender, broker, or program administrator license financial

1 statements prepared in accordance with generally accepted
2 accounting principles and acceptable to the commissioner that
3 indicate a net worth of at least twenty-five thousand dollars
4 (\$25,000). Except as provided in subdivisions (b) and (c), a licensee
5 shall maintain a net worth of at least twenty-five thousand dollars
6 (\$25,000) at all times.

7 (b) A licensed finance lender or broker, that employs one or
8 more mortgage loan originators and that makes residential
9 mortgage loans, shall continuously maintain a minimum net worth
10 of at least two hundred fifty thousand dollars (\$250,000).

11 (c) A licensed finance broker, that employs one or more
12 mortgage loan originators and that arranges, but does not make,
13 residential mortgage loans, shall continuously maintain a minimum
14 net worth of at least fifty thousand dollars (\$50,000).

15 (d) The commissioner may promulgate rules or regulations with
16 respect to the requirements for minimum net worth, as are
17 necessary to accomplish the purposes of this division and comply
18 with the SAFE Act.

19 (e) This section shall become operative on January 1, 2019.

20 ~~SEC. 32.~~

21 *SEC. 31.* Section 22105 of the Financial Code is amended to
22 read:

23 22105. (a) Upon the filing of an application pursuant to Section
24 22101 and the payment of the fees, the commissioner shall
25 investigate the applicant and its general partners and persons
26 owning or controlling, directly or indirectly, 10 percent or more
27 of the outstanding interests or any person responsible for the
28 conduct of the applicant's lending activities in this state, if the
29 applicant is a partnership. If the applicant is a corporation, trust,
30 limited liability company, or association, including an
31 unincorporated organization, the commissioner shall investigate
32 the applicant, its principal officers, directors, managing members,
33 and persons owning or controlling, directly or indirectly, 10 percent
34 or more of the outstanding equity securities or any person
35 responsible for the conduct of the applicant's lending activities in
36 this state. Upon the filing of an application pursuant to Section
37 22102 and the payment of the fees, the commissioner shall
38 investigate the person responsible for the lending activity of the
39 licensee at the new location described in the application. The
40 investigation may be limited to information that was not included

1 in prior applications filed pursuant to this division. If the
2 commissioner determines that the applicant has satisfied this
3 division and does not find facts constituting reasons for denial
4 under Section 22109, the commissioner shall issue and deliver a
5 license to the applicant.

6 (b) For the purposes of this section, “principal officers” shall
7 mean president, chief executive officer, treasurer, and chief
8 financial officer, as may be applicable, and any other officer with
9 direct responsibility for the conduct of the applicant’s lending
10 activities within the state.

11 (c) This section shall remain in effect only until January 1, 2019,
12 and as of that date is repealed.

13 ~~SEC. 33.~~

14 *SEC. 32.* Section 22105 is added to the Financial Code, to read:

15 22105. (a) Upon the filing of an application pursuant to Section
16 22101 and the payment of the fees, the commissioner shall
17 investigate the applicant and its general partners and persons
18 owning or controlling, directly or indirectly, 10 percent or more
19 of the outstanding interests or any person responsible for the
20 conduct of the applicant’s lending activities in this state, if the
21 applicant is a partnership. If the applicant is a corporation, trust,
22 limited liability company, or association, including an
23 unincorporated organization, the commissioner shall investigate
24 the applicant, its principal officers, directors, managing members,
25 and persons owning or controlling, directly or indirectly, 10 percent
26 or more of the outstanding equity securities or any person
27 responsible for the conduct of the applicant’s lending activities or
28 for administering PACE programs for the applicant in this state.
29 Upon the filing of an application pursuant to Section 22102 and
30 the payment of the fees, the commissioner shall investigate the
31 person responsible for the lending activity of the licensee, or for
32 administering one or more PACE programs for the licensee, at the
33 new location described in the application. The investigation may
34 be limited to information that was not included in prior applications
35 filed pursuant to this division. If the commissioner determines that
36 the applicant has satisfied this division and does not find facts
37 constituting reasons for denial under Section 22109, the
38 commissioner shall issue and deliver a license to the applicant.

39 (b) For the purposes of this section, “principal officers” shall
40 mean president, chief executive officer, treasurer, and chief

1 financial officer, as may be applicable, and any other officer with
2 direct responsibility for the conduct of the applicant's lending
3 activities or for PACE program administration for the applicant
4 within the state.

5 (c) This section shall become operative on January 1, 2019.

6 ~~SEC. 34.~~

7 *SEC. 33.* Section 22105.3 of the Financial Code is amended
8 to read:

9 22105.3. (a) Except as otherwise provided in Section 1512 of
10 the SAFE Act, the requirements under any federal or state law
11 regarding the privacy or confidentiality of any information or
12 material provided to the Nationwide Mortgage Licensing System
13 and Registry, and any privilege arising under federal or state law,
14 including the rules of any federal or state court, with respect to
15 that information or material, shall continue to apply to the
16 information or material after the information or material has been
17 disclosed to the Nationwide Mortgage Licensing System and
18 Registry. The information and material may be shared with all
19 state and federal regulatory officials with mortgage industry
20 oversight authority without the loss of privilege or the loss of
21 confidentiality protections provided by federal or state law.

22 (b) For these purposes, the commissioner is authorized to enter
23 agreements or share arrangements with other governmental
24 agencies, the Conference of State Bank Supervisors, the American
25 Association of Residential Mortgage Regulators, or other
26 associations representing governmental agencies as established by
27 rule, regulation, or order of the commissioner.

28 (c) Information or material that is subject to a privilege or
29 confidentiality under subdivision (a) shall not be subject to the
30 following:

31 (1) Disclosure under any federal or state law governing the
32 disclosure to the public of information held by an officer or an
33 agency of the federal government or the state.

34 (2) Subpoena or discovery, or admission into evidence, in any
35 private civil action or administrative process, unless with respect
36 to any privilege held by the Nationwide Mortgage Licensing
37 System and Registry with respect to the information or material,
38 the person to whom the information or material pertains waives,
39 in whole or in part, in the discretion of the person, that privilege.

(3) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 35.~~

SEC. 34. Section 22105.3 is added to the Financial Code, to read:

22105.3. (a) Except as otherwise provided in Section 1512 of the SAFE Act, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to that information or material, shall continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with applicable oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For these purposes, the commissioner is authorized to enter agreements or share arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule, regulation, or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subdivision (a) shall not be subject to the following:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the state.

(2) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material,

1 the person to whom the information or material pertains waives,
2 in whole or in part, in the discretion of the person, that privilege.

3 (3) This section shall not apply with respect to the information
4 or material relating to the employment history of, and publicly
5 adjudicated disciplinary and enforcement actions against, mortgage
6 loan originators that is included in the Nationwide Mortgage
7 Licensing System and Registry for access by the public.

8 (d) This section shall become operative on January 1, 2019.

9 ~~SEC. 36.~~

10 *SEC. 35.* Section 22106 of the Financial Code is amended to
11 read:

12 22106. (a) The finance lender or broker license shall state the
13 name of the licensee, and if the licensee is a partnership, the names
14 of its general partners, and if a corporation or an association, the
15 date and place of its incorporation or organization, and the address
16 of the licensee's principal business location. On the approval and
17 licensing of a location pursuant to Section 22101 or 22102, the
18 commissioner shall issue an original license endorsed to show the
19 address of the authorized location and, if applicable, the name of
20 the subsidiary corporation licensed to operate the location. The
21 license shall state whether the licensee is licensed as a finance
22 lender or a broker.

23 (b) (1) An application for a license for a business location
24 outside this state shall constitute an agreement by the applicant to
25 do all of the following:

26 (A) Make the licensee's books, accounts, papers, records, and
27 files available to the commissioner or the commissioner's
28 representatives in this state.

29 (B) Pay the reasonable expenses for travel, meals, and lodging
30 of the commissioner or the commissioner's representatives incurred
31 during any investigation or examination made at the licensee's
32 location outside this state.

33 (2) A licensee located outside this state is not required to
34 maintain books and records regarding licensed loans separate from
35 those for other loans if the licensed loans can be readily identified.

36 (c) This section shall remain in effect only until January 1, 2019,
37 and as of that date is repealed.

38 ~~SEC. 37.~~

39 *SEC. 36.* Section 22106 is added to the Financial Code, to read:

22106. (a) The finance lender, broker, or program administrator license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization, and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 22101 or 22102, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a finance lender, broker, or program administrator.

(b) (1) An application for a license for a business location outside this state shall constitute an agreement by the applicant to do all of the following:

(A) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(B) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

(2) A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

(c) This section shall become operative on January 1, 2019.

~~SEC. 38.~~

SEC. 37. 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).

(b) On or before the 30th day of September 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. If payment is not made by October 31, 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) per licensed location per year.

(d) If a licensee fails to pay the assessment on or before the 31st day of October, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for a 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.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 39.~~

SEC. 38. Section 22107 is added to the Financial Code, to read:

22107. (a) Each finance lender, broker, or program administrator 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

1 deficit actually incurred or anticipated in the administration of the
2 program in the year in which the assessment is made. The pro rata
3 share shall be the proportion that a licensee's gross income bears
4 to the aggregate gross income of all licensees as shown by the
5 annual financial reports to the commissioner, for the costs and
6 expenses remaining after the amount assessed pursuant to
7 subdivision (c).

8 (b) On or before September 30th in each year, the commissioner
9 shall notify each licensee of the amount assessed and levied against
10 it and that amount shall be paid by October 31. If payment is not
11 made by October 31, the commissioner shall assess and collect a
12 penalty, in addition to the assessment, of 1 percent of the
13 assessment for each month or part of a month that the payment is
14 delayed or withheld.

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

18 (d) If a licensee fails to pay the assessment on or before the
19 October 31st, the commissioner may by order summarily suspend
20 or revoke the certificate issued to the licensee. If, after an order is
21 made, a request for a hearing is filed in writing within 30 days,
22 and a hearing is not held within 60 days thereafter, the order is
23 deemed rescinded as of its effective date. During any period when
24 its certificate is revoked or suspended, a finance lender, broker, or
25 program administrator licensee and any mortgage loan originator
26 licensee employed by the finance lender or broker shall not conduct
27 business pursuant to this division except as may be permitted by
28 order of the commissioner. However, the revocation, suspension,
29 or surrender of a certificate shall not affect the powers of the
30 commissioner as provided in this division.

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

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

38 (g) This section shall become operative on January 1, 2019.

~~SEC. 40.~~

SEC. 39. Section 22109 of the Financial Code is amended to read:

22109. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a finance lender or broker license for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

(4) The applicant employs a mortgage loan originator who is not licensed, or has not initiated an application to become licensed, pursuant to this division.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall, within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 41.~~

SEC. 40. Section 22109 is added to the Financial Code, to read:

22109. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a finance lender, broker, or program administrator license for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities or administering PACE programs for the applicant in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities or administering PACE programs for the applicant in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

(4) The applicant employs a mortgage loan originator who is not licensed, or has not initiated an application to become licensed, pursuant to this division.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall, within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) This section shall become operative on January 1, 2019.

~~SEC. 42.~~

SEC. 41. Section 22151 of the Financial Code is amended to read:

1 22151. (a) A finance lender license, broker license, and the
2 license of every mortgage loan originator employed by a lender
3 or finance broker, along with any currently effective order of the
4 commissioner approving a different name pursuant to Section
5 22155, shall be conspicuously posted in the place of business
6 authorized by the license.

7 (b) A license is not transferable or assignable. A license issued
8 to a partnership or a limited partnership is not transferred or
9 assigned within the meaning of this section by the death,
10 withdrawal, or admission of a partner, general partner, or limited
11 partner, unless the death, withdrawal, or admission dissolves the
12 partnership to which the license was issued.

13 (c) This section shall remain in effect only until January 1, 2019,
14 and as of that date is repealed.

15 ~~SEC. 43.~~

16 *SEC. 42.* Section 22151 is added to the Financial Code, to read:

17 22151. (a) A finance lender license, broker license, program
18 administrator license, and the license of every mortgage loan
19 originator employed by a lender or finance broker, along with any
20 currently effective order of the commissioner approving a different
21 name pursuant to Section 22155, shall be conspicuously posted in
22 the place of business authorized by the license.

23 (b) A license is not transferable or assignable. A license issued
24 to a partnership or a limited partnership is not transferred or
25 assigned within the meaning of this section by the death,
26 withdrawal, or admission of a partner, general partner, or limited
27 partner, unless the death, withdrawal, or admission dissolves the
28 partnership to which the license was issued.

29 (c) This section shall become operative on January 1, 2019.

30 ~~SEC. 44.~~

31 *SEC. 43.* Section 22152 of the Financial Code is amended to
32 read:

33 22152. (a) A finance lender or broker licensee shall maintain
34 only one place of business under a duplicate or original license
35 issued pursuant to Section 22101 or 22102. The commissioner
36 may issue more than one license to the same licensee upon
37 compliance with all the provisions of this division governing an
38 original issuance of a license.

39 (b) This section shall remain in effect only until January 1, 2019,
40 and as of that date is repealed.

1 ~~SEC. 45.~~

2 *SEC. 44.* Section 22152 is added to the Financial Code, to read:

3 22152. (a) A finance lender, broker, or program administrator
4 licensee shall maintain only one place of business under a duplicate
5 or original license issued pursuant to Section 22101 or 22102. The
6 commissioner may issue more than one license to the same licensee
7 upon compliance with all the provisions of this division governing
8 an original issuance of a license.

9 (b) This section shall become operative on January 1, 2019.

10 ~~SEC. 46.~~

11 *SEC. 45.* Section 22153 of the Financial Code is amended to
12 read:

13 22153. (a) If a finance lender or broker licensee seeks to
14 change its place of business to a street address other than that
15 designated in its license, the licensee shall provide notice to the
16 commissioner at least 10 days before the change. The commissioner
17 shall notify the licensee within 10 days if the commissioner
18 disapproves the change, and if the commissioner does not notify
19 the licensee of disapproval within 10 days, the change in address
20 shall be deemed approved. The commissioner may require an
21 applicant to submit its application to change its place of business
22 through the Nationwide Mortgage Licensing System and Registry.

23 (b) If notice is not given at least 10 days before the change of
24 a street address of a place of business, as required by subdivision
25 (a), or notice is not given at least 10 days prior to engaging in
26 business at a new location, as required by Section 22102, the
27 commissioner may assess a civil or administrative penalty on the
28 licensee not to exceed five hundred dollars (\$500).

29 (c) This section shall remain in effect only until January 1, 2019,
30 and as of that date is repealed.

31 ~~SEC. 47.~~

32 *SEC. 46.* Section 22153 is added to the Financial Code, to read:

33 22153. (a) If a finance lender, broker, or program administrator
34 licensee seeks to change its place of business to a street address
35 other than that designated in its license, the licensee shall provide
36 notice to the commissioner at least 10 days before the change. The
37 commissioner shall notify the licensee within 10 days if the
38 commissioner disapproves the change, and if the commissioner
39 does not notify the licensee of disapproval within 10 days, the
40 change in address shall be deemed approved. The commissioner

1 may require an applicant to submit its application to change its
2 place of business through the Nationwide Mortgage Licensing
3 System and Registry.

4 (b) If notice is not given at least 10 days before the change of
5 a street address of a place of business, as required by subdivision
6 (a), or notice is not given at least 10 days before engaging in
7 business at a new location, as required by Section 22102, the
8 commissioner may assess a civil or administrative penalty on the
9 licensee not to exceed five hundred dollars (\$500).

10 (c) This section shall become operative on January 1, 2019.

11 ~~SEC. 48.~~

12 *SEC. 47.* Section 22154 of the Financial Code is amended to
13 read:

14 22154. (a) A licensee shall not conduct the business of making
15 loans under this division within any office, room, or place of
16 business in which any other business is solicited or engaged in, or
17 in association or conjunction therewith, except as is authorized in
18 writing by the commissioner upon the commissioner's finding that
19 the character of the other business is such that the granting of the
20 authority would not facilitate evasions of this division or of the
21 rules and regulations made pursuant to this division. An
22 authorization, once granted, remains in effect until revoked by the
23 commissioner. The commissioner may authorize the other business
24 through the Nationwide Mortgage Licensing System and Registry.

25 (b) The products or services of an affiliated corporation of the
26 licensee that is a supervised financial institution, or a parent or
27 subsidiary of a supervised financial institution that is an affiliate
28 of the licensee, may be provided, offered, or sold at the licensed
29 location of the licensee without authorization by the commissioner
30 pursuant to subdivision (a) if both of the following are met:

31 (1) The activity is not prohibited by, or in violation of, the laws
32 applicable to the affiliate or supervised financial institution.

33 (2) The products and services are not offered and sold in a
34 manner that restricts the ability of the borrower or customer to
35 individually select or reject a product or service that is offered.

36 (c) The following definitions govern the construction of this
37 section:

38 (1) "Affiliated" or "affiliate" means the following: A corporation
39 is an affiliate of, or a corporation is affiliated with, another
40 specified corporation if it directly, or indirectly through one or

1 more intermediaries, controls, is controlled by, or is under common
2 control with, the other specified corporation.

3 (2) “Supervised financial institution” means any commercial
4 bank, industrial bank, credit card bank, trust company, savings
5 and loan association, savings bank, credit union, California finance
6 lender, residential mortgage lender or servicer, or insurer, provided
7 that the institution is subject to supervision by an official or agency
8 of this state or of the United States.

9 (d) This section shall remain in effect only until January 1, 2019,
10 and as of that date is repealed.

11 ~~SEC. 49.~~

12 *SEC. 48.* Section 22154 is added to the Financial Code, to read:

13 22154. (a) A licensee shall not conduct the business of making
14 loans or administering a PACE program under this division within
15 any office, room, or place of business in which any other business
16 is solicited or engaged in, or in association or conjunction
17 therewith, except as is authorized in writing by the commissioner
18 upon the commissioner’s finding that the character of the other
19 business is such that the granting of the authority would not
20 facilitate evasions of this division or of the rules and regulations
21 made pursuant to this division. An authorization, once granted,
22 remains in effect until revoked by the commissioner. The
23 commissioner may authorize the other business through the
24 Nationwide Mortgage Licensing System and Registry.

25 (b) The products or services of an affiliated corporation of the
26 licensee that is a supervised financial institution, or a parent or
27 subsidiary of a supervised financial institution that is an affiliate
28 of the licensee, may be provided, offered, or sold at the licensed
29 location of the licensee without authorization by the commissioner
30 pursuant to subdivision (a) if both of the following are met:

31 (1) The activity is not prohibited by, or in violation of, the laws
32 applicable to the affiliate or supervised financial institution.

33 (2) The products and services are not offered and sold in a
34 manner that restricts the ability of the borrower or customer to
35 individually select or reject a product or service that is offered.

36 (c) The following definitions govern the construction of this
37 section:

38 (1) “Affiliated” or “affiliate” means the following: A corporation
39 is an affiliate of, or a corporation is affiliated with, another
40 specified corporation if it directly, or indirectly through one or

1 more intermediaries, controls, is controlled by, or is under common
2 control with, the other specified corporation.

3 (2) “Supervised financial institution” means any commercial
4 bank, industrial bank, credit card bank, trust company, savings
5 and loan association, savings bank, credit union, California finance
6 lender, residential mortgage lender or servicer, or insurer, provided
7 that the institution is subject to supervision by an official or agency
8 of this state or of the United States.

9 (d) This section shall become operative on January 1, 2019.

10 ~~SEC. 50.~~

11 *SEC. 49.* Section 22155 of the Financial Code is amended to
12 read:

13 22155. (a) A finance lender, broker, or mortgage loan
14 originator licensee shall not transact the business licensed or make
15 any loan provided for by this division under any other name or at
16 any other place of business than that named in the license except
17 pursuant to a currently effective written order of the commissioner
18 authorizing the other name or other place of business. The
19 commissioner’s order, while effective, shall be deemed to amend
20 the original license issued pursuant to Section 22105 or 22109.1.
21 Notwithstanding any provision of this section, a licensee may make
22 any loan and engage in any other business provided for by this
23 division, other than the business described in subdivision (b) of
24 Section 22154, at a place other than the licensed location under
25 either of the following conditions:

26 (1) The borrower requests, either orally or in writing, that a loan
27 be initiated or made at a location other than the licensee’s licensed
28 location. The use by the licensee of a preprinted solicitation form
29 returned to the licensee by the borrower shall not constitute a
30 request by the borrower that a loan be initiated or made at a
31 location other than the licensee’s licensed location.

32 (2) The licensee makes a solicitation or advertises for, or makes
33 an offer of, a loan displayed on “home pages” or similar methods
34 by the licensee on the Internet, the World Wide Web, or similar
35 proprietary or common carrier electronic systems, and the
36 prospective borrower may transmit information over these
37 electronic systems to the licensee in connection with the licensee’s
38 offer to make a loan.

39 (b) This section shall remain in effect only until January 1, 2019,
40 and as of that date is repealed.

1 ~~SEC. 51.~~

2 ~~SEC. 50.~~ Section 22155 is added to the Financial Code, to read:

3 22155. (a) A finance lender, broker, mortgage loan originator,
4 or program administrator licensee shall not transact the business
5 licensed or make any loan or ~~assessment contract~~ *administer any*
6 *PACE program* provided for by this division under any other name
7 or at any other place of business than that named in the license
8 except pursuant to a currently effective written order of the
9 commissioner authorizing the other name or other place of
10 business. The commissioner's order, while effective, shall be
11 deemed to amend the original license issued pursuant to Section
12 22105 or 22109.1. Notwithstanding any provision of this section,
13 a finance lender, *program administrator*, broker, or mortgage loan
14 originator licensee may make any loan and engage in any other
15 business provided for by this division, other than the business
16 described in subdivision (b) of Section 22154, at a place other than
17 the licensed location under either of the following conditions:

18 (1) The borrower requests, either orally or in writing, that a loan
19 be initiated or made at a location other than the licensee's licensed
20 location. The use by the licensee of a preprinted solicitation form
21 returned to the licensee by the borrower shall not constitute a
22 request by the borrower that a loan be initiated or made at a
23 location other than the licensee's licensed location.

24 (2) The licensee makes a solicitation or advertises for, or makes
25 an offer of, a loan *or assessment contract* displayed on "home
26 pages" or similar methods by the licensee on the Internet, the World
27 Wide Web, or similar proprietary or common carrier electronic
28 systems, and the prospective borrower *or property owner* may
29 transmit information over these electronic systems to the licensee
30 in connection with the licensee's offer to make a ~~loan~~ *loan or*
31 *assessment contract*.

32 (b) This section shall become operative on January 1, 2019.

33 ~~SEC. 52.~~

34 ~~SEC. 51.~~ Section 22156 of the Financial Code is amended to
35 read:

36 22156. (a) Finance lender, broker, and mortgage loan originator
37 licensees shall keep and use in their business, books, accounts,
38 and records which will enable the commissioner to determine if
39 the licensee is complying with the provisions of this division and
40 with the rules and regulations made by the commissioner. On any

1 loan secured by real property in which loan proceeds were
2 disbursed to an independent escrowholder, the licensee shall retain
3 records and documents as set forth by rules of the commissioner
4 adopted pursuant to Section 22150. Upon request of the
5 commissioner, licensees shall file an authorization for disclosure
6 to the commissioner of financial records of the licensed business
7 pursuant to Section 7473 of the Government Code.

8 (b) This section shall remain in effect only until January 1, 2019,
9 and as of that date is repealed.

10 ~~SEC. 53.~~

11 *SEC. 52.* Section 22156 is added to the Financial Code, to read:

12 22156. (a) Finance lender, broker, program administrator, and
13 mortgage loan originator licensees shall keep and use in their
14 business, books, accounts, and records which will enable the
15 commissioner to determine if the licensee is complying with the
16 provisions of this division and with the rules and regulations made
17 by the commissioner. On any loan secured by real property in
18 which loan proceeds were disbursed to an independent
19 escrowholder, the licensee shall retain records and documents as
20 set forth by rules of the commissioner adopted pursuant to Section
21 22150. Upon request of the commissioner, licensees shall file an
22 authorization for disclosure to the commissioner of financial
23 records of the licensed business pursuant to Section 7473 of the
24 Government Code.

25 (b) This section shall become operative on January 1, 2019.

26 ~~SEC. 54.~~

27 *SEC. 53.* Section 22157 of the Financial Code is amended to
28 read:

29 22157. (a) Finance lender, broker, and mortgage loan originator
30 licensees shall preserve their books, accounts, and records,
31 including cards used in the card system, if any, for at least three
32 years after making the final entry on any loan recorded therein.

33 (b) This section shall remain in effect only until January 1, 2019,
34 and as of that date is repealed.

35 ~~SEC. 55.~~

36 *SEC. 54.* Section 22157 is added to the Financial Code, to read:

37 22157. (a) Finance lender, broker, and mortgage loan originator
38 licensees shall preserve their books, accounts, and records, if any,
39 for at least three years after making the final entry on any loan
40 recorded therein.

(b) Except as otherwise specified by applicable law, program administrator licensees shall preserve their books, accounts, and records for at least three years after the extinguishment of a PACE assessment is recorded therein.

(c) This section shall become operative on January 1, 2019.

~~SEC. 56.~~

SEC. 55. Section 22159 of the Financial Code is amended to read:

22159. (a) Each finance lender and broker licensee shall file an annual report with the commissioner, on or before the 15th day of March, giving the relevant information that the commissioner reasonably requires concerning the business and operations conducted by the licensee within the state during the preceding calendar year for each licensed place of business. The individual annual reports filed pursuant to this section shall be made available to the public for inspection except, upon request in the annual report to the commissioner, the balance sheet contained in the annual report of a sole proprietor or any other nonpublicly traded person. "Nonpublicly traded person" for purposes of this section means persons with securities owned by 35 or fewer individuals. The report shall be made under oath and in the form prescribed by the commissioner.

(b) A licensee shall make other special reports that may be required by the commissioner.

(c) The commissioner may require a licensee that employs one or more mortgage loan originators to submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in the form and shall contain the information as the Nationwide Mortgage Licensing System and Registry may require.

(d) The commissioner may by rule or order require a mortgage loan originator to submit reports of condition to the Nationwide Mortgage Licensing System and Registry, in lieu of the reports of condition required of his or her employer pursuant to subdivision (c).

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 57.~~

SEC. 56. Section 22159 is added to the Financial Code, to read:

22159. (a) Each finance lender, broker, and program administrator licensee shall file an annual report with the

1 commissioner, on or before March 15th, giving the relevant
2 information that the commissioner reasonably requires concerning
3 the business and operations conducted by the licensee or authorized
4 by the program administrator licensee within the state during the
5 preceding calendar year for each licensed place of business. The
6 individual annual reports filed pursuant to this section shall be
7 made available to the public for inspection except, upon request
8 in the annual report to the commissioner, the balance sheet
9 contained in the annual report of a sole proprietor or any other
10 nonpublicly traded person. "Nonpublicly traded person" for
11 purposes of this section means persons with securities owned by
12 35 or fewer individuals. The report shall be made under oath and
13 in the form prescribed by the commissioner.

14 (b) A licensee shall make other special reports that may be
15 required by the commissioner.

16 (c) The commissioner may require a licensee that employs one
17 or more mortgage loan originators to submit to the Nationwide
18 Mortgage Licensing System and Registry reports of condition,
19 which shall be in the form and shall contain the information as the
20 Nationwide Mortgage Licensing System and Registry may require.

21 (d) The commissioner may by rule or order require a mortgage
22 loan originator to submit reports of condition to the Nationwide
23 Mortgage Licensing System and Registry, in lieu of the reports of
24 condition required of his or her employer pursuant to subdivision
25 (c).

26 (e) This section shall become operative on January 1, 2019.

27 ~~SEC. 58.~~

28 *SEC. 57.* Section 22161 of the Financial Code is amended to
29 read:

30 22161. (a) A person subject to this division shall not do any
31 of the following:

32 (1) Make a materially false or misleading statement or
33 representation to a borrower about the terms or conditions of that
34 borrower's loan, when making or brokering the loan.

35 (2) Advertise, print, display, publish, distribute, or broadcast,
36 or cause or permit to be advertised, printed, displayed, published,
37 distributed, or broadcast in any manner, any statement or
38 representation with regard to the business subject to the provisions
39 of this division, including the rates, terms, or conditions for making
40 or negotiating loans, that is false, misleading, or deceptive, or that

1 omits material information that is necessary to make the statements
2 not false, misleading, or deceptive, or in the case of a licensee,
3 that refers to the supervision of the business by the state or any
4 department or official of the state.

5 (3) Commit an act in violation of Section 1695.13 of the Civil
6 Code.

7 (4) Engage in any act in violation of Section 17200 of the
8 Business and Professions Code.

9 (5) Knowingly misrepresent, circumvent, or conceal, through
10 subterfuge or device, any material aspect or information regarding
11 a transaction to which the person is a party.

12 (6) Commit an act that constitutes fraud or dishonest dealings.

13 (b) This section shall remain in effect only until January 1, 2019,
14 and as of that date is repealed.

15 ~~SEC. 59.~~

16 *SEC. 58.* Section 22161 is added to the Financial Code, to read:

17 22161. (a) A person subject to this division shall not do any
18 of the following:

19 (1) Make a materially false or misleading statement or
20 representation to a borrower about the terms or conditions of that
21 borrower's loan, when making or brokering the loan.

22 (2) Make a materially false or misleading statement or
23 representation to a property owner about the terms or conditions
24 of an assessment contract.

25 (3) Advertise, print, display, publish, distribute, or broadcast,
26 or cause or permit to be advertised, printed, displayed, published,
27 distributed, or broadcast in any manner, any statement or
28 representation with regard to the business subject to the provisions
29 of this division, including the rates, terms, or conditions for making
30 or negotiating loans, or for making or negotiating assessment
31 contracts, that is false, misleading, or deceptive, or that omits
32 material information that is necessary to make the statements not
33 false, misleading, or deceptive, or in the case of a licensee, that
34 refers to the supervision of the business by the state or any
35 department or official of the state.

36 (4) Commit an act in violation of Section 1695.13 of the Civil
37 Code.

38 (5) Engage in any act in violation of Section 17200 of the
39 Business and Professions Code.

1 (6) Knowingly misrepresent, circumvent, or conceal, through
2 subterfuge or device, any material aspect or information regarding
3 a transaction to which the person is a party.

4 (7) Commit an act that constitutes fraud or dishonest dealings.

5 (b) This section shall become operative on January 1, 2019.

6 ~~SEC. 60.~~

7 *SEC. 59.* Section 22162 of the Financial Code is amended to
8 read:

9 22162. (a) A licensee shall not place an advertisement
10 disseminated primarily in this state for a loan unless the licensee
11 discloses in the printed text of the advertisement, or in the oral text
12 in the case of a radio or television advertisement, the license under
13 which the loan would be made or arranged.

14 (b) This section shall remain in effect only until January 1, 2019,
15 and as of that date is repealed.

16 ~~SEC. 61.~~

17 *SEC. 60.* Section 22162 is added to the Financial Code, to read:

18 22162. (a) A finance lender, broker, or mortgage loan
19 originator licensee shall not place an advertisement disseminated
20 primarily in this state for a loan unless the licensee discloses in
21 the printed text of the advertisement, or in the oral text in the case
22 of a radio or television advertisement, the license under which the
23 loan would be made or arranged.

24 (b) A program administrator licensee shall not place an
25 advertisement disseminated primarily in this state for an assessment
26 contract unless the licensee discloses in the printed text of the
27 advertisement, or in the oral text in the case of a radio or television
28 advertisement, the license under which the assessment contract
29 would be administered.

30 (c) This section shall become operative on January 1, 2019.

31 ~~SEC. 62.~~

32 *SEC. 61.* Section 22163 of the Financial Code is amended to
33 read:

34 22163. (a) The commissioner may require that rates of charge,
35 if stated by a licensee, be stated fully and clearly in the manner
36 that the commissioner deems necessary to prevent
37 misunderstanding by prospective borrowers.

38 (b) This section shall remain in effect only until January 1, 2019,
39 and as of that date is repealed.

1 ~~SEC. 63.~~

2 *SEC. 62.* Section 22163 is added to the Financial Code, to read:

3 22163. (a) The commissioner may require that rates of charge,
4 if stated by a licensee, be stated fully and clearly in the manner
5 that the commissioner deems necessary to prevent
6 misunderstanding by prospective borrowers or property owners.

7 (b) This section shall become operative on January 1, 2019.

8 ~~SEC. 64.~~

9 *SEC. 63.* Section 22164 of the Financial Code is amended to
10 read:

11 22164. (a) If any person engaged in the business regulated by
12 this division refers in any advertising to rates of interest, charges,
13 or cost of loans, the commissioner shall require that the rates,
14 charges, or costs are stated fully and clearly in the manner that he
15 or she deems necessary to give adequate information to prospective
16 borrowers. If the rates or costs advertised do not apply to loans of
17 all classes made or negotiated by the person, this fact shall be
18 clearly indicated in the advertisement.

19 (b) This section shall remain in effect only until January 1, 2019,
20 and as of that date is repealed.

21 ~~SEC. 65.~~

22 *SEC. 64.* Section 22164 is added to the Financial Code, to read:

23 22164. (a) If any person engaged in the business regulated by
24 this division refers in any advertising to rates of interest, charges,
25 or cost of loans or assessment contracts, the commissioner shall
26 require that the rates, charges, or costs are stated fully and clearly
27 in the manner that he or she deems necessary to give adequate
28 information to prospective borrowers or property owners. If the
29 rates or costs advertised do not apply to loans or assessment
30 contracts of all classes made or negotiated by the person, this fact
31 shall be clearly indicated in the advertisement.

32 (b) This section shall become operative on January 1, 2019.

33 ~~SEC. 66.~~

34 *SEC. 65.* Section 22168 of the Financial Code is amended to
35 read:

36 22168. (a) The commissioner may, after appropriate notice
37 and opportunity for hearing, suspend for a period not to exceed 12
38 months or bar a person from any position of employment with a
39 licensee if the commissioner finds that the person has willfully
40 used or claimed without authority a designation or certification of

1 special education, practice, or skill that the person has not attained,
2 or willfully held out to the public a confusingly similar designation
3 or certification for the purpose of misleading the public regarding
4 his or her qualifications or experience.

5 (b) Within 15 days from the date of a notice of intention to issue
6 an order pursuant to subdivision (a), the person may request a
7 hearing under the Administrative Procedure Act (Chapter 5
8 (commencing with Section 11500) of Part 1 of Division 3 of Title
9 2 of the Government Code). Upon receiving a request, the matter
10 shall be set for hearing to commence within 30 days after receipt
11 unless the person subject to this division consents to a later date.
12 If no hearing is requested within 15 days after the mailing or
13 service of the notice and none is ordered by the commissioner, the
14 failure to request a hearing shall constitute a waiver of the right to
15 a hearing.

16 (c) Upon receipt of a notice of intention to issue an order
17 pursuant to subdivision (a), the person who is the subject of the
18 proposed order is immediately prohibited from engaging in any
19 activities subject to licensure under this division.

20 (d) Persons suspended or barred under this section are prohibited
21 from participating in any business activity of a licensed finance
22 lender, broker, or mortgage loan originator, and from engaging in
23 any business activity on the premises where a licensed finance
24 lender, broker, or mortgage loan originator is conducting its
25 business. This subdivision shall not be construed to prohibit
26 suspended or barred persons from having their personal transactions
27 processed by a licensed finance lender, broker, or mortgage loan
28 originator.

29 (e) This section shall remain in effect only until January 1, 2019,
30 and as of that date is repealed.

31 ~~SEC. 67.~~

32 *SEC. 66.* Section 22168 is added to the Financial Code, to read:

33 22168. (a) The commissioner may, after appropriate notice
34 and opportunity for hearing, suspend for a period not to exceed 12
35 months or bar a person from any position of employment with a
36 licensee if the commissioner finds that the person has willfully
37 used or claimed without authority a designation or certification of
38 special education, practice, or skill that the person has not attained,
39 or willfully held out to the public a confusingly similar designation

1 or certification for the purpose of misleading the public regarding
2 his or her qualifications or experience.

3 (b) Within 15 days from the date of a notice of intention to issue
4 an order pursuant to subdivision (a), the person may request a
5 hearing under the Administrative Procedure Act (Chapter 5
6 (commencing with Section 11500) of Part 1 of Division 3 of Title
7 2 of the Government Code). Upon receiving a request, the matter
8 shall be set for hearing to commence within 30 days after receipt
9 unless the person subject to this division consents to a later date.
10 If no hearing is requested within 15 days after the mailing or
11 service of the notice and none is ordered by the commissioner, the
12 failure to request a hearing shall constitute a waiver of the right to
13 a hearing.

14 (c) Upon receipt of a notice of intention to issue an order
15 pursuant to subdivision (a), the person who is the subject of the
16 proposed order is immediately prohibited from engaging in any
17 activities subject to licensure under this division.

18 (d) Persons suspended or barred under this section are prohibited
19 from participating in any business activity of a licensed finance
20 lender, broker, program administrator, or mortgage loan originator,
21 and from engaging in any business activity on the premises where
22 a licensed finance lender, broker, program administrator, or
23 mortgage loan originator is conducting its business. This
24 subdivision does not prohibit suspended or barred persons from
25 having their personal transactions processed by a licensed finance
26 lender, broker, mortgage loan originator, or program administrator.

27 (e) This section shall become operative on January 1, 2019.

28 ~~SEC. 68.~~

29 *SEC. 67.* Section 22169 of the Financial Code is amended to
30 read:

31 22169. (a) The commissioner may, after appropriate notice
32 and opportunity for hearing, by order, censure or suspend for a
33 period not exceeding 12 months, or bar a person, including a
34 mortgage loan originator, from any position of employment with,
35 or management or control of, any finance lender, broker, or any
36 other person, if the commissioner finds either of the following:

37 (1) That the censure, suspension, or bar is in the public interest
38 and that the person has committed or caused a violation of this
39 division or rule or order of the commissioner, which violation was
40 either known or should have been known by the person committing

1 or causing it or has caused material damage to the finance lender,
2 broker, or mortgage loan originator, or to the public.

3 (2) That the person has been convicted of or pleaded nolo
4 contendere to any crime, or has been held liable in any civil action
5 by final judgment, or any administrative judgment by any public
6 agency, if that crime or civil or administrative judgment involved
7 any offense involving dishonesty, fraud, or deceit, or any other
8 offense reasonably related to the qualifications, functions, or duties
9 of a person engaged in the business in accordance with the
10 provisions of this division.

11 (b) Within 15 days from the date of a notice of intention to issue
12 an order pursuant to subdivision (a), the person may request a
13 hearing under the Administrative Procedure Act (Chapter 4.5
14 (commencing with Section 11400) of Part 1 of Division 3 of Title
15 2 of the Government Code). Upon receipt of a request, the matter
16 shall be set for hearing to commence within 30 days after such
17 receipt unless the person subject to this division consents to a later
18 date. If no hearing is requested within 15 days after the mailing or
19 service of such notice and none is ordered by the commissioner,
20 the failure to request a hearing shall constitute a waiver of the right
21 to a hearing.

22 (c) Upon receipt of a notice of intention to issue an order
23 pursuant to this section, the person who is the subject of the
24 proposed order is immediately prohibited from engaging in any
25 activities subject to licensure under the law.

26 (d) Persons suspended or barred under this section are prohibited
27 from participating in any business activity of a finance lender,
28 broker, or mortgage loan originator, and from engaging in any
29 business activity on the premises where a finance lender, broker,
30 or mortgage loan originator is conducting business.

31 (e) This section shall remain in effect only until January 1, 2019,
32 and as of that date is repealed.

33 ~~SEC. 69.~~

34 *SEC. 68.* Section 22169 is added to the Financial Code, to read:

35 22169. (a) The commissioner may, after appropriate notice
36 and opportunity for hearing, by order, censure or suspend for a
37 period not exceeding 12 months, or bar a person, including a
38 mortgage loan originator, from any position of employment with,
39 or management or control of, any finance lender, broker, program

1 administrator, or any other person, if the commissioner finds either
2 of the following:

3 (1) That the censure, suspension, or bar is in the public interest
4 and that the person has committed or caused a violation of this
5 division or rule or order of the commissioner, which violation was
6 either known or should have been known by the person committing
7 or causing it or has caused material damage to the finance lender,
8 broker, program administrator, or mortgage loan originator, or to
9 the public.

10 (2) That the person has been convicted of or pleaded nolo
11 contendere to any crime, or has been held liable in any civil action
12 by final judgment, or any administrative judgment by any public
13 agency, if that crime or civil or administrative judgment involved
14 any offense involving dishonesty, fraud, or deceit, or any other
15 offense reasonably related to the qualifications, functions, or duties
16 of a person engaged in the business in accordance with the
17 provisions of this division.

18 (b) Within 15 days from the date of a notice of intention to issue
19 an order pursuant to subdivision (a) or (b), the person may request
20 a hearing under the Administrative Procedure Act (Chapter 4.5
21 (commencing with Section 11400) of Part 1 of Division 3 of Title
22 2 of the Government Code). Upon receipt of a request, the matter
23 shall be set for hearing to commence within 30 days after such
24 receipt unless the person subject to this division consents to a later
25 date. If no hearing is requested within 15 days after the mailing or
26 service of such notice and none is ordered by the commissioner,
27 the failure to request a hearing shall constitute a waiver of the right
28 to a hearing.

29 (c) Upon receipt of a notice of intention to issue an order
30 pursuant to this section, the person who is the subject of the
31 proposed order is immediately prohibited from engaging in any
32 activities subject to licensure under the law.

33 (d) Persons suspended or barred under this section are prohibited
34 from participating in any business activity of a finance lender,
35 broker, program administrator, or mortgage loan originator, and
36 from engaging in any business activity on the premises where a
37 finance lender, broker, program administrator, or mortgage loan
38 originator is conducting business.

39 (e) This section shall become operative on January 1, 2019.

~~SEC. 70.~~

SEC. 69. Section 22252 is added to the Financial Code, to read:
22252. This chapter does not apply to a program administrator
or a PACE solicitor.

~~SEC. 71.~~

SEC. 70. Section 22552 is added to the Financial Code, to read:
22552. This chapter does not apply to a program administrator
or a PACE solicitor.

~~SEC. 72.~~

SEC. 71. Chapter 3.5 (commencing with Section 22680) is
added to Division 9 of the Financial Code, to read:

CHAPTER 3.5. PROGRAM ADMINISTRATORS

22680. (a) A program administrator shall establish and
maintain a process for enrolling PACE solicitors, which shall
include both of the following:

(1) A written agreement between the program administrator and
the PACE solicitor, which shall set forth the obligations of the
PACE solicitor and its PACE solicitor agents.

(2) A review of readily and publicly available information
regarding each PACE solicitor.

(b) A program administrator shall establish and maintain a
process for enrolling PACE solicitor agents, which shall include
a background check of each PACE solicitor agent. A program
administrator may rely on a background check conducted by the
Contractors' State License Board to comply with this requirement.

(c) A program administrator shall not enroll a PACE solicitor
or a PACE solicitor agent that does not satisfy at least one of the
following criteria:

(1) Maintain in good standing a license from the Contractors'
State License Board.

(2) Maintain a registration in good standing with the
Contractors' State License Board as a home improvement
salesperson.

(3) Be exempt from, or not subject to, licensure or registration
under the Contractors' State License Law (Chapter 9 (commencing
with Section 7000) of Division 3 of the Business and Professions
Code).

(d) A program administrator shall not enroll a PACE solicitor if, as a result of the review conducted as part of the program administrator's enrollment process, the program administrator finds any of the following:

(1) A clear pattern of consumer complaints about the PACE solicitor regarding dishonesty, misrepresentations, or omissions.

(2) A high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law.

(3) A clear pattern on the part of the PACE solicitor of failing to timely receive and respond to property owner complaints regarding the PACE solicitor.

(e) A program administrator shall establish and maintain a process to promote and evaluate the compliance of PACE solicitors and PACE solicitor agents with the requirements of applicable law, which shall include all of the following, at a minimum:

(1) A risk-based, commercially reasonable procedure to monitor and test the compliance of PACE solicitors and PACE solicitor agents with the requirements of paragraph (2) of subdivision (a) of Section 22684. 22689.

(2) A procedure to regularly monitor the license or registration status of PACE solicitors and PACE solicitor agents.

(3) A periodic review of the solicitation activities of PACE solicitors enrolled with the program administrator, to be conducted at least once every two years.

(f) A program administrator shall establish and implement a process for canceling the enrollment of PACE solicitors and PACE solicitor agents who fail to maintain the minimum qualifications required by this section, or who violate any provision of this division.

22681. A program administrator shall establish and maintain a training program for PACE solicitor agents, which is acceptable to the commissioner.

(a) A program administrator shall require each PACE solicitor agent to complete an introductory training that addresses the topics listed in subsection (b) as part of the program administrator's enrollment process for PACE solicitor agents. The introductory training shall require that the PACE solicitor agent pass a test that measures the PACE solicitor agent's knowledge and

1 comprehension of the training material. The introductory training
2 shall not be subject to any minimum duration requirements.

3 (b) In addition to the introductory training, a program
4 administrator shall require that each PACE solicitor agent complete
5 six hours of education provided by the program administrator
6 within three months of completing the program administrator's
7 enrollment process. The training shall include the following topics:

8 (1) PACE programs and assessment contracts.

9 (2) PACE disclosures.

10 (3) Ethics.

11 (4) Fraud prevention.

12 (5) Consumer protection.

13 (6) Nondiscrimination.

14 (7) Senior financial abuse.

15 22682. (a) A program administrator shall, in the manner
16 prescribed by the commissioner, notify the commissioner of each
17 PACE solicitor and PACE solicitor agent enrolled by the program
18 administrator.

19 (b) A program administrator shall, in the manner prescribed by
20 the commissioner, timely notify the commissioner of each
21 enrollment cancellation and withdrawal of a PACE solicitor or a
22 PACE solicitor agent pursuant to subdivision (f) of Section 22680.

23 22683. A program administrator shall develop and implement
24 policies and procedures for responding to questions and addressing
25 complaints as soon as reasonably practicable.

26 22684. A program administrator shall not submit, present, or
27 otherwise approve for recordation by a public agency an assessment
28 contract unless the following criteria are satisfied:

29 (a) All property taxes for the property that will be subject to the
30 assessment contract are current. The program administrator shall
31 ask ~~the~~ a property owner whether there has been no more than one
32 late payment of property taxes on the property for the previous
33 three years or since the current owner acquired the property,
34 whichever period is shorter.

35 (b) The property that will be subject to the assessment contract
36 has no recorded and outstanding involuntary liens in excess of one
37 thousand dollars (\$1,000).

38 (c) The property that will be subject to the assessment contract
39 has no notices of default currently recorded which have not been
40 rescinded.

(d) The property owner has not been a party to any bankruptcy proceedings within the last seven years, except that the property owner may have been party to a bankruptcy proceeding that was discharged or dismissed between two and seven years before the application date and the property owner has had no payments more than 30 days past due on any mortgage debt or nonmortgage debt, excluding medical debt, during the 12 months immediately preceding the application date.

(e) The property owner is current on all mortgage debt on the subject property and has no more than one late payment ~~exceeding 30 days past due~~ during the 12 months immediately preceding the application ~~date~~. *date and if the late payment did not exceed 30 days past due.*

(f) The property that will be subject to the assessment contract is within the geographical boundaries of the applicable PACE program.

(g) The measures to be installed pursuant to the assessment contract are eligible under the terms of the applicable PACE program.

(h) The financing is for less than 15 percent of the value of the property, up to the first seven hundred thousand dollars (\$700,000) inclusive of the existing assessments, and is for less than 10 percent of the remaining value of the property above seven hundred thousand dollars (\$700,000).

(i) The total PACE assessments and the mortgage-related debt on the property subject to the PACE assessment will not exceed 97 percent of the market value of the property as established by the valuation required by Section 22685.

(j) The term of the assessment contract shall not exceed the estimated useful life of the measure to which the greatest portion of funds disbursed under the assessment contract is attributable. The program administrator shall determine useful life for purposes of this subdivision based upon credible third-party standards or certification criteria that have been established by appropriate government agencies or nationally recognized standards and testing organizations.

(k) The program administrator shall verify the existence of recorded PACE assessments and shall ask if the property owner has authorized additional PACE assessments on the same subject property that have not yet been recorded. The failure of a property

owner to comply with this subdivision shall not invalidate an assessment contract or any obligations thereunder, notwithstanding where the combined amount of the PACE assessments exceed the criteria set forth in subdivision (h) or (i). The existence of a prior PACE assessment or a prior assessment contract shall not constitute evidence that the assessment contract under consideration is affordable or meets any other program requirements. ~~The~~

~~(l) The program administrator shall use, where available, use~~ commercially reasonable *and available* methods to verify the above.

~~(1)~~

~~(m)~~ Notwithstanding Section ~~22694~~, 22696, this section shall become operative on January 1, 2018.

22685. (a) A program administrator shall derive market value using one of the following:

(1) An automated valuation model, using the following criteria:

(A) The automated valuation model must be provided by a third-party vendor.

(B) The automated valuation model must have estimation models with confidence scores and regular statistical calibration by the third-party vendor.

(C) The PACE program must utilize at least three automated valuation models for each property. The estimated value for each model shall be the average between the high and low values, if a range is provided.

(D) The PACE program shall utilize the estimated value with the highest confidence score for a property. If an automated valuation model meeting the criteria of subparagraphs (A),(B), and (C) does not obtain a confidence score for a subject property, the PACE Program shall utilize the average of all estimated values.

(2) An appraisal conducted within six months of the application date by a state-licensed real estate appraiser licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(3) For paragraph (2), program administrators shall conform to the requirements of California Code of Regulations, Title 10, Chapter 6.5 (commencing with Section 3500), including but not limited to, Section 3577 governing Minimum Standards of Practice, or with the Appraiser Independence Requirements that were developed by the Federal Housing Finance Agency.

1 (b) The market value determination by the program administrator
2 shall be disclosed to the property owner prior to signing the
3 assessment contract.

4 (c) Notwithstanding Section ~~22694~~, 22696, this section shall
5 become operative on January 1, 2018.

6 22686. A program administrator shall not approve for funding,
7 and recordation by a public agency, an assessment contract unless
8 the program administrator makes a reasonable good faith
9 determination that the property owner has a reasonable ability to
10 pay the annual payment obligations for the PACE assessment.

11 Notwithstanding Section ~~22694~~, 22696, this section shall become
12 operative on April 1, 2018.

13 22687. (a) A program administrator shall determine, prior to
14 funding, and recordation by a public agency of the assessment
15 contract that the property owner has a reasonable ability to pay
16 the annual payment obligations for the PACE assessment based
17 on the property owner income, assets, and current debt obligations.
18 The determination process shall be based on the following factors:

19 (1) The property owner shall submit on their application their
20 monthly income and their monthly housing expenses.

21 (2) Housing expenses shall include all mortgage principal and
22 interest payments, insurance, property taxes, mortgage guaranty
23 insurance, and other preexisting fees and assessments on the
24 property. Household income shall include the income of the
25 mortgagor on the subject property and may include the income of
26 any persons age 18 or older who are on title to the property. For
27 any person whose income is considered, their debt obligations
28 must also be considered pursuant to the provisions of this section.
29 There is no requirement to consider more income than is necessary,
30 nor to verify assets if verified income is sufficient to determine
31 the ability to pay the annual payment obligations.

32 (3) Debt obligations in accordance with subdivision (c).

33 (4) In evaluating the income, assets and current debt obligations
34 of the property owner, the equity of the property that will secure
35 the assessment shall not be considered.

36 (5) Pursuant to Section 5913 of the Streets and Highways Code,
37 the program administrator shall ask the homeowner open-ended
38 questions during the confirm terms call, to confirm the ~~income~~,
39 *income* provided on the application and to identify the sources of
40 their income.

(b) (1) The program administrator shall determine and consider the *current or reasonably expected* income or assets of the property owner that the program administrator relies on in order to determine a property owner's ability to pay the PACE assessment annual payment obligations using reasonably reliable third-party records of the property owner's income or assets. The program administrator may use automated verification provided the source of that verification is specific to the income of the property owner and not based on predictive or estimation methodologies, and has been determined sufficient for such verification purposes by a federal or state mortgage lending authority or regulator. Examples of records the program administrator may use to verify the property owner's income or assets include:

(A) A Pay stub showing the most recent 30- day pay period or financial institution records showing regular deposits consistent with reported income for the most recent 60 days.

(B) Copies of most recent tax returns the property owner filed with the Internal Revenue Service or the Franchise Tax Board.

(C) *Copies of the most recent* Internal Revenue Service Form W-2 (Wage and Tax Statement), or other similar Internal Revenue Service forms that are used for reporting wages or tax withholding.

(D) Payroll statements, including the Department of Defense Leave and Earnings Statement (LES).

(E) Financial institution records, such as bank statements or investment account statements reflecting the value of particular assets.

(F) Records from the property owner's employer or a third party that obtained income information from the employer.

(G) Records from a federal, state, or local government agency stating the property owner's income from benefits or entitlements. Income from benefits paid by a government entity shall not include any benefits for which the recipient must satisfy a means test or any cashequivalent non-monetary benefits, such as food stamps.

(2) Income may not be derived from temporary sources of income, illiquid assets, or proceeds derived from the equity from the subject property.

(c) A program administrator shall consider the monthly debt obligations of the property owner to determine a property owner's ability to pay the annual payment PACE assessment ~~obligation~~ obligations using reasonably reliable third-party records, including

1 one or more consumer credit reports from agencies that meet the
2 requirements of Section 1681a(p) of Title 15 of the United States
3 Code. Program administrators shall use at least a two-file Merged
4 Credit Report (MCR) or a Residential Mortgage Credit Report
5 (RMCR). For purposes of this subdivision, monthly debt
6 obligations include, but are not limited to, the following:

- 7 (1) All secured and unsecured debt.
- 8 (2) Alimony.
- 9 (3) Child support.

10 (4) Monthly housing ~~payments~~ *expenses*. If property tax and
11 insurance obligations are not included in a property owner's
12 escrow, a program administrator shall use reasonably reliable
13 methods to determine these obligations.

14 (d) In calculating the ability of the property owner to pay the
15 annual payment obligations, the program administrator shall
16 determine that the property owner's income is sufficient to meet:

- 17 (1) The PACE payment, including all interest and fees.
- 18 (2) Any mortgage payments, as defined by the higher of the
19 borrowers self-reported housing payment or housing expenses
20 determined in accordance with paragraph (1) and (2) of subdivision
21 (a).

22 (3) All existing debts and obligations as identified in subdivision
23 (c).

24 (4) Sufficient residual income to meet basic household living
25 expenses, defined as expected expenses which may be variable
26 based on circumstances and consumption patterns of the household.
27 A program administrator may make reasonable estimation of basic
28 living expenses based on the number of persons in the household.
29 Examples of basic living expenses include, but are not limited to,
30 categories such as food and other necessary household
31 consumables; transportation costs to work or school (fuel, auto
32 insurance and maintenance, public transit, etc.); and utilities
33 expenses for telecommunication, water, sewage, electricity, and
34 gas.

35 (e) In the case of emergency or immediate necessity, the
36 requirements of paragraph (1) of subdivision (b) may be waived,
37 in accordance with the requirements of Section 5940 of the Streets
38 and Highway Code, for the funding and recordation of a PACE
39 assessment to finance a heating, ventilation, and air conditioning

(HVAC) system, boiler, or other system whose primary function is temperature regulation in a home if all the following are met:

(1) The program administrator first attempted to use an automated means of verification as described in paragraph (1) of subdivision (b).

(2) If the program administrator was unable to verify the property owner's income pursuant to paragraph (1) of subdivision (b), pursuant to Section 5913 of the Streets and Highways Code, the program administrator shall ask the property owner open-ended questions during the oral confirmation ~~to confirm the income provided on the application and to identify the sources of their income.~~ *identify their income and the sources of their income.* The program administrator shall comply with the requirements of subdivision (a), paragraph (2) of subdivision (b), and subdivisions (c) and (d).

(3) The funding is limited to the emergency or immediate necessity improvement and any required improvements directly necessary to the installation and safe operation of the improvement.

(4) Any efficiency improvement funded is eligible for PACE financing.

(5) The property owner executes a waiver of their ~~to~~ right to cancel pursuant to subdivision (d) of Section 5940 of the Streets and Highways Code, and confirms, pursuant to Section 5913 of the Streets and Highways Code, the emergency or immediate necessity of the improvement.

(6) The amount of the assessment contract does not exceed fifteen thousand dollars (\$15,000) ~~or 3 percent of the value of the property established by the valuation required by Section 22685,~~ *a monthly equivalent payment on the PACE assessment of one hundred twenty-five dollars (\$125), as adjusted by any annual increase in the California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code,* whichever is greater.

(f) The program administrator shall report annually all PACE assessments that were funded and recorded pursuant to subdivision (e) in a form acceptable to the commissioner.

~~(g) The commissioner, no earlier than January 1, 2022, may, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), initiate a rulemaking action to adopt,~~

1 by rule, a safe harbor for a program administrator's determination
2 of the ability of a property owner to pay the property owner's
3 annual PACE obligation. This rule shall utilize the criteria for
4 determining ability to pay in this section and Section 22686, and
5 establish a safe harbor value of sufficient residual income to meet
6 basic household living expenses described in paragraph (4) of
7 subdivision (d). This rule shall not revoke or replace the provisions
8 for determination of the ability to pay the annual PACE obligation
9 in this section or in Section 22686.

10 (g) *If there is a difference between the determination of the*
11 *property owner's ability to pay the annual PACE obligations and*
12 *the actual amount financed for the property owner, and the*
13 *property owner is obligated on the underlying home improvement*
14 *contract, the program administrator shall be responsible for that*
15 *difference. This subdivision does not apply in a case of intentional*
16 *misrepresentation by the property owner.*

17 (h) Notwithstanding Section 22694, 22696, this section shall
18 become operative on April 1, 2018.

19 22688. (a) A program administrator shall comply with
20 requirements regarding the duty to safeguard nonpublic personal
21 information imposed by the California Financial Information
22 Privacy Act (Division 1.4 (commencing with Section 4050)).

23 (b) *Notwithstanding Section 22696, this section shall become*
24 *operative on April 1, 2018.*

25 22689. (a) A program administrator shall not permit a PACE
26 solicitor to do any of the following:

27 (1) Solicit a property owner to enter into an assessment contract
28 with a program administrator, unless the PACE solicitor and the
29 program administrator comply with the requirements of this chapter
30 and any rules adopted by the commissioner.

31 (2) Engage in any act in violation of Section 5898.16 or 5898.17
32 of the Streets and Highways Code or Chapter 29.1 (commencing
33 with Section 5900) of Part 3 of Division 7 of the Streets and
34 Highways Code, including offering an assessment contract with
35 terms, conditions, or disclosures that are not in compliance with
36 applicable laws or that omits terms, conditions, or disclosures
37 required by applicable law, excepting the reporting requirements
38 of Section 5954 of the Streets and Highways Code.

39 (b) A program administrator shall be subject to the enforcement
40 authority of the commissioner for any violations of this division,

1 to the extent such violations have been committed by the program
2 administrator or by a PACE solicitor authorized by that program
3 administrator, in connection with activity related to that program
4 administrator.

5 (c) A violation of any provision of Section 5898.16 or 5898.17
6 of the Streets and Highways Code or of any provision of Chapter
7 29.1 (commencing with Section 5900) of Part 3 of Division 7 of
8 the Streets and Highways Code by a program administrator,
9 excepting the reporting requirements of Section 5954, or by a
10 PACE solicitor authorized by that program administrator in
11 connection with activity related to that program administrator,
12 shall represent a violation of this division.

13 22690. (a) A program administrator is subject to an inspection,
14 examination, or investigation in accordance with Section 22701.

15 (b) If, in the course of an inspection, examination, or
16 investigation of a program administrator, the commissioner has
17 cause to believe that the program administrator, the PACE solicitor,
18 or the PACE solicitor agent may have committed a violation of
19 this division or any rule or order thereunder, or the commissioner
20 seeks to obtain or provide information necessary to the
21 commissioner in the administration of the division, with respect
22 to a matter related to a PACE solicitor or PACE solicitor agent,
23 and either this information is not available directly from the
24 program administrator or the commissioner seeks to validate the
25 information obtained from the program administrator, the
26 commissioner may do the following:

27 (1) Inspect, examine, or investigate any and all documents,
28 records, files, and communications of the PACE solicitor or PACE
29 solicitor agent that are relevant to the violation or the matter. For
30 purposes of the inspection, examination, or investigation, the
31 commissioner and his or her representatives shall have access to
32 the records of the PACE solicitor or PACE solicitor agent related
33 to assessment contracts associated with the violation or matter.

34 (2) Require the attendance of witnesses and examine under oath
35 all persons whose testimony he or she requires relative to the
36 violation or matter.

37 (c) If, upon inspection, examination, or investigation, the
38 commissioner has cause to believe that a PACE solicitor or PACE
39 solicitor agent is violating any provision of this division or any
40 rule or order thereunder, the commissioner or his or her designee

1 shall exhaust the procedure set forth in paragraph (1) before
2 bringing any action authorized under paragraph (2).

3 (1) (A) The commissioner shall issue a report to the program
4 administrator, the PACE solicitor, and, if applicable, the PACE
5 solicitor agent, identifying each violation of this division or any
6 rule or order thereunder.

7 (B) The program administrator, PACE solicitor, and, if
8 applicable, PACE solicitor, PACE solicitor agent, or any
9 combination thereof, shall have the opportunity to provide a written
10 answer to the report submitted pursuant to subparagraph (A) within
11 a reasonable period.

12 (C) If upon expiration of that period, the commissioner believes
13 further action is necessary or appropriate, the commissioner may
14 do any of the following, in any combination:

15 (i) Demand a corrective action by the program administrator,
16 PACE solicitor, PACE solicitor agent, or any combination thereof.

17 (ii) Demand the program administrator, PACE solicitor, PACE
18 solicitor agent, or any combination thereof, stop violating the
19 division, rule, or order.

20 (iii) Demand the PACE solicitor or PACE solicitor agent, or
21 both, discontinue engaging in the business of soliciting property
22 owners to enter into assessment contracts related to any or all
23 program administrators, or demand the program administrator
24 deauthorize the PACE solicitor or PACE solicitor agent, or both,
25 for a defined period not exceeding 12 months, or indefinitely.

26 (D) If the program administrator, PACE solicitor, and PACE
27 solicitor agent, as applicable, agree to the commissioner's demand
28 issued under subparagraph (C), or otherwise reach a mutually
29 agreeable resolution with the commissioner, the examination and
30 correspondence related thereto shall remain confidential under
31 paragraph (2) of subdivision (d) of Section 6254 of the Government
32 Code. The commissioner may make publicly available the identity
33 of any PACE solicitor or PACE solicitor agent, or both, who has
34 agreed to discontinue engaging in the business of soliciting
35 property owners to enter into assessment contracts.

36 (E) If the program administrator, PACE solicitor, or PACE
37 solicitor agent, or any combination thereof, do not agree to the
38 commissioner's demand issued under subparagraph (C), or
39 otherwise reach a mutually agreeable resolution with the

1 commissioner within a reasonable period, the commissioner may
2 proceed under paragraph (2) or subdivision (d).

3 (2) Upon exhaustion of the procedure in paragraph (1), the
4 commissioner may bring an order against a PACE solicitor, PACE
5 solicitor agent, or both, as provided in this paragraph.

6 (A) The commissioner may order a PACE solicitor or PACE
7 solicitor agent, or both, to desist and refrain from engaging in
8 business as a PACE solicitor or PACE solicitor agent, or further
9 violating this division, or the rules thereunder, in accordance with
10 clause (i) and (ii) of this subparagraph. This paragraph does not
11 authorize the commissioner to restrict the ability of a PACE
12 solicitor or PACE solicitor agent to engage in any business that
13 does not involve soliciting a property owner to enter into an
14 assessment contract.

15 (i) If, within 30 days ~~for~~ of the receipt of the order, the PACE
16 solicitor or PACE solicitor agent, or both, fails to request a hearing,
17 the order shall become final.

18 (ii) If, within 30 days of the receipt of the order, the PACE
19 solicitor or PACE solicitor agent, or both, requests a hearing, the
20 hearing shall be conducted in accordance with Chapter 5
21 (commencing with Section 11500) of Part 1 of Division 3 of Title
22 2 of the Government Code.

23 (B) The commissioner may, after appropriate notice and
24 opportunity for a hearing, by order, censure or suspend for a period
25 not exceeding 12 months, or bar any natural person from directly
26 or indirectly soliciting a property owner to enter into an assessment
27 contract, in accordance with clause (i) to (iv), inclusive, of this
28 subparagraph. This paragraph does not authorize the commissioner
29 to restrict the ability of a natural person to engage in any business
30 that does not involve soliciting a property owner to enter into an
31 assessment contract, or being employed by a PACE solicitor in a
32 capacity that does not involve soliciting a property owner to enter
33 into an assessment contract.

34 (i) Within 15 days from the date of a notice of intention to issue
35 an order pursuant to this subparagraph, the person may request a
36 hearing under the Administrative Procedure Act (Chapter 4.5
37 (commencing with Section 11400) of Division 3 of Title 2 of the
38 Government Code).

39 (ii) Upon receipt of a request submitted pursuant to clause (i),
40 the matter shall be set for hearing to commence within 30 days

1 after the commissioner receives the request pursuant to clause (i),
2 unless the person subject to the notice consents to a later date.

3 (iii) If no hearing is requested within 15 days after the mailing
4 or service of the notice of intention as described in clause (i), and
5 the commissioner does not order a hearing, the right to a hearing
6 shall be deemed to be waived.

7 (iv) Upon receipt of a notice of intention to issue an order
8 pursuant to this subparagraph, the person who is the subject of the
9 proposed order is immediately prohibited from directly or indirectly
10 soliciting a property owner to enter into an assessment contract.

11 (d) Upon exhaustion of the procedure in paragraph (1) of
12 subdivision (c), if after investigation, the commissioner has
13 reasonable grounds to believe that a person is conducting business
14 as a PACE solicitor or PACE solicitor agent, or both, in an unsafe
15 or injurious manner that will result in irreparable harm, the
16 commissioner shall, by order, direct the person to discontinue the
17 unsafe or injurious practice, in accordance with the following:

18 (1) The order shall be effective immediately.

19 (2) If, within 30 days ~~for~~ of the receipt of the order, the PACE
20 solicitor fails to request a hearing, the order shall become final.

21 (3) If, within 30 days of the receipt of the order, the PACE
22 solicitor requests a hearing, the hearing shall be conducted in
23 accordance with Chapter 5 (commencing with Section 11500) of
24 Part 1 of Division 3 of Title 2 of the Government Code.

25 (e) An order brought under paragraph (2) of subdivision (c) or
26 subdivision (d) shall be public.

27 (f) A PACE solicitor or PACE solicitor agent subject to this
28 section shall not be subject to Chapter 4 (commencing with Section
29 22700).

30 (g) The commissioner shall not be bound to the provisions of
31 this section in connection with his or her enforcement of this
32 division with respect to a program administrator.

33 22691. The commissioner may by such rules as he or she deems
34 necessary or appropriate in the public interest or for the protection
35 of property owners, either unconditionally or upon specified terms
36 and conditions or for specified periods, exempt any class of persons
37 specified in such rules from the provisions of Section 22680,
38 Section 22681, and Section 22682.

1 22692. (a) *The commissioner shall require a program*
2 *administrator to submit the following information in the annual*
3 *report filed under Section 22159:*

4 (1) *Information beneficial to an evaluation of the overall impact*
5 *on property owners caused by the 97 percent cap on total PACE*
6 *and mortgage-related debt.*

7 (2) *Information beneficial to an evaluation of the overall impact*
8 *on property owners caused by the use of an automated valuation*
9 *model in determining the market value of property subject to a*
10 *PACE assessment.*

11 (3) *Information beneficial to an evaluation of the overall impact*
12 *on property owners caused by the emergency HVAC provisions.*

13 (4) *Information relevant to determining the overall impact on*
14 *property owners of the absence of a minimum residual income*
15 *threshold.*

16 (b) *The information received under this section shall appear in*
17 *a separate section within the composite of the annual reports*
18 *required to be prepared by the commissioner pursuant to Section*
19 *22160.*

20 (c) *This section does not limit the authority of the commissioner*
21 *to require additional information from a program administrator*
22 *under Section 22159.*

23 22693. (a) *The commissioner may, by rule, require a program*
24 *administrator to use a real-time registry or database system for*
25 *tracking PACE assessments in order to carry out his or her*
26 *regulatory duties and to support enforcement. That registry or*
27 *database system shall enable the program administrator to trace*
28 *PACE assessments and shall include, but not be limited to, features*
29 *for providing or obtaining information about a property's status*
30 *with regard to PACE assessments placed on the property, whether*
31 *recorded or not. All costs associated with the real-time registry*
32 *or database system shall be apportioned among licensed program*
33 *administrators based on the volume and amount of PACE*
34 *assessments by each program administrator, or such other method*
35 *that fairly apportions the costs, as required by rule. The*
36 *commissioner may contract with an independent third party for*
37 *the development and ongoing maintenance and support of the*
38 *real-time registry or database system, and may require the program*
39 *administrators to pay the cost of development and ongoing*
40 *maintenance and support directly to the independent third party.*

1 *In no event, the costs apportioned to a program administrator*
2 *shall not exceed a reasonable regulatory cost.*

3 *(b) On January 1, 2020, the commissioner shall determine*
4 *whether to proceed with a rulemaking action. This subdivision*
5 *shall not restrict the ability of the commissioner to proceed with*
6 *a rule under this section at any time.*

7 ~~22692.~~

8 22694. This chapter does not apply to a finance lender,
9 mortgage loan originator, or broker licensee.

10 ~~22693.~~

11 22695. (a) A violation of this chapter by any person is not
12 subject to the criminal penalties established pursuant to Sections
13 22753 and 22780.

14 (b) Notwithstanding Section ~~22694~~, 22696, this section shall
15 become operative on ~~January 1, 2018~~. *the effective date of this act.*

16 ~~22694.~~

17 22696. Except as provided in Sections 22684, 22685, 22686,
18 22687, ~~22693~~, 22688, and 22695, this chapter shall become
19 operative on January 1, 2019.

20 22697. *This chapter does not preclude or reduce any rights*
21 *and remedies established under any other laws.*

22 ~~SEC. 73.~~

23 SEC. 72. Section 22700 of the Financial Code is amended to
24 read:

25 22700. (a) Finance lender and broker licenses issued under
26 this division shall remain in effect until they are surrendered,
27 revoked, or suspended.

28 (b) Mortgage loan originator licenses issued under this division
29 shall be renewed annually upon the payment of an annual
30 assessment, and, if renewed by the licensee, shall remain in effect
31 until they are surrendered, revoked, or suspended.

32 (c) Surrender of a license becomes effective 30 days after receipt
33 of an application to surrender the license or within a shorter period
34 of time that the commissioner may determine, unless a revocation
35 or suspension proceeding is pending when the application is filed
36 or a proceeding to revoke or suspend or to impose conditions upon
37 the surrender is instituted within 30 days after the application is
38 filed. If a proceeding is pending or instituted, surrender of a license
39 becomes effective at the time and upon the conditions that the
40 commissioner determines.

1 (d) This section shall remain in effect only until January 1, 2019,
2 and as of that date is repealed.

3 ~~SEC. 74.~~

4 *SEC. 73.* Section 22700 is added to the Financial Code, to read:

5 22700. (a) Finance lender, broker, and program administrator
6 licenses issued under this division shall remain in effect until they
7 are surrendered, revoked, or suspended.

8 (b) Mortgage loan originator licenses issued under this division
9 shall be renewed annually upon the payment of an annual
10 assessment, and, if renewed by the licensee, shall remain in effect
11 until they are surrendered, revoked, or suspended.

12 (c) Surrender of a license becomes effective 30 days after receipt
13 of an application to surrender the license or within a shorter period
14 of time that the commissioner may determine, unless a revocation
15 or suspension proceeding is pending when the application is filed
16 or a proceeding to revoke or suspend or to impose conditions upon
17 the surrender is instituted within 30 days after the application is
18 filed. If a proceeding is pending or instituted, surrender of a license
19 becomes effective at the time and upon the conditions that the
20 commissioner determines.

21 (d) This section shall become operative on January 1, 2019.

22 ~~SEC. 75.~~

23 *SEC. 74.* Section 22701 of the Financial Code is amended to
24 read:

25 22701. (a) For the purpose of discovering violations of this
26 division or securing information required by him or her in the
27 administration and enforcement of this division, the commissioner
28 may at any time investigate the loans and business, and examine
29 the books, accounts, records, and files used in the business, of
30 every person engaged in the business of a finance lender or broker,
31 whether the person acts or claims to act as principal or agent, or
32 under or without the authority of this division. For the purpose of
33 examination, the commissioner and his or her representatives shall
34 have free access to the offices and places of business, books,
35 accounts, papers, records, files, safes, and vaults of all these
36 persons.

37 (b) This section shall remain in effect only until January 1, 2019,
38 and as of that date is repealed.

39 ~~SEC. 76.~~

40 *SEC. 75.* Section 22701 is added to the Financial Code, to read:

22701. (a) For the purpose of discovering violations of this division or securing information required by him or her in the administration and enforcement of this division, the commissioner may at any time investigate the loans, assessment contracts, and business, and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a finance lender, broker, or program administrator, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination, the commissioner and his or her 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) This section shall become operative on January 1, 2019.

~~SEC. 77.~~

SEC. 76. Section 22706 of the Financial Code is amended to read:

22706. (a) The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony he or she requires relative to loans or business regulated by this division or to the subject matter of any examination, investigation, or hearing.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

~~SEC. 78.~~

SEC. 77. Section 22706 is added to the Financial Code, to read:

22706. (a) The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony he or she requires relative to loans, assessment contracts, or business regulated by this division or to the subject matter of any examination, investigation, or hearing.

(b) This section shall become operative on January 1, 2019.

~~SEC. 79.~~

SEC. 78. Section 22712 of the Financial Code is amended to read:

22712. (a) Whenever, in the opinion of the commissioner, any person is engaged in business as a broker or finance lender, or a mortgage loan originator, as defined in this division, without a license from the commissioner, or any licensee violates any provision of this division, any provision of an order, or any

1 regulation adopted pursuant to this division, the commissioner
2 may order that person or licensee to desist and to refrain from
3 engaging in the business or further continuing that violation. If,
4 within 30 days after the order is served, a written request for a
5 hearing is filed and no hearing is held within 30 days thereafter,
6 the order is rescinded. For purposes of this section, "licensee"
7 includes a mortgage loan originator.

8 (b) Notwithstanding subdivision (a), if, after an investigation,
9 the commissioner has reasonable grounds to believe that a person
10 is conducting business in an unsafe or injurious manner, the
11 commissioner shall, by written order addressed to that person,
12 direct the discontinuance of the unsafe or injurious practices. The
13 order shall be effective immediately, but shall not become final
14 except in accordance with the provisions of Section 22717.

15 (c) This section shall remain in effect only until January 1, 2019,
16 and as of that date is repealed.

17 ~~SEC. 80.~~

18 *SEC. 79.* Section 22712 is added to the Financial Code, to read:

19 22712. (a) Whenever, in the opinion of the commissioner, any
20 person is engaged in business as a finance lender, broker, program
21 administrator, or a mortgage loan originator, as defined in this
22 division, without a license from the commissioner, or any licensee
23 violates any provision of this division, any provision of an order,
24 or any regulation adopted pursuant to this division, the
25 commissioner may order that person or licensee to desist and to
26 refrain from engaging in the business or further continuing that
27 violation. If, within 30 days after the order is served, a written
28 request for a hearing is filed and no hearing is held within 30 days
29 thereafter, the order is rescinded. For purposes of this section,
30 "licensee" includes a mortgage loan originator.

31 (b) Notwithstanding subdivision (a), if, after an investigation,
32 the commissioner has reasonable grounds to believe that a person
33 is conducting business in an unsafe or injurious manner, the
34 commissioner shall, by written order addressed to that person,
35 direct the discontinuance of the unsafe or injurious practices. The
36 order shall be effective immediately, but shall not become final
37 except in accordance with the provisions of Section 22717.

38 (c) This section shall become operative on January 1, 2019.

1 ~~SEC. 81.~~

2 *SEC. 80.* Section 22714 of the Financial Code is amended to
3 read:

4 22714. (a) The commissioner shall suspend or revoke any
5 license, upon notice and reasonable opportunity to be heard, if the
6 commissioner finds any of the following:

7 (1) The licensee has failed to comply with any demand, ruling,
8 or requirement of the commissioner made pursuant to and within
9 the authority of this division.

10 (2) The licensee has violated any provision of this division or
11 any rule or regulation made by the commissioner under and within
12 the authority of this division.

13 (3) A fact or condition exists that, if it had existed at the time
14 of the original application for the license, reasonably would have
15 warranted the commissioner in refusing to issue the license
16 originally.

17 (4) There has been repeated failure by the finance lender, when
18 making or negotiating loans, to take into consideration in
19 determining the size and duration of loans, the financial ability of
20 the borrower to repay the loan in the time and manner provided in
21 the loan contract, or to refinance the loan at maturity.

22 (b) A master license shall not be suspended or revoked pursuant
23 to this section as a result of any action or failure to act by a
24 subsidiary licensee unless grounds exist for the suspension or
25 revocation of the master license pursuant to this section. An order
26 suspending or revoking a license or imposing sanctions against a
27 licensee shall not affect other licensed locations unless expressly
28 stated in the order.

29 (c) This section shall remain in effect only until January 1, 2019,
30 and as of that date is repealed.

31 ~~SEC. 82.~~

32 *SEC. 81.* Section 22714 is added to the Financial Code, to read:

33 22714. (a) The commissioner shall suspend or revoke any
34 license, upon notice and reasonable opportunity to be heard, if the
35 commissioner finds any of the following:

36 (1) The licensee has failed to comply with any demand, ruling,
37 or requirement of the commissioner made pursuant to and within
38 the authority of this division.

1 (2) The licensee has violated any provision of this division or
2 any rule or regulation made by the commissioner under and within
3 the authority of this division.

4 (3) A fact or condition exists that, if it had existed at the time
5 of the original application for the license, reasonably would have
6 warranted the commissioner in refusing to issue the license
7 originally.

8 (4) There has been repeated failure by the finance lender, when
9 making or negotiating loans, to take into consideration in
10 determining the size and duration of loans, the financial ability of
11 the borrower to repay the loan in the time and manner provided in
12 the loan contract, or to refinance the loan at maturity.

13 (5) There has been repeated failure by the program administrator,
14 when administering assessment contracts, to take into consideration
15 in determining the size and duration of the assessment contracts,
16 the property owner's ability to meet the annual PACE-obligation
17 obligations in the time and manner provided in the contract.

18 (b) A master license shall not be suspended or revoked pursuant
19 to this section as a result of any action or failure to act by a
20 subsidiary licensee unless grounds exist for the suspension or
21 revocation of the master license pursuant to this section. An order
22 suspending or revoking a license or imposing sanctions against a
23 licensee shall not affect other licensed locations unless expressly
24 stated in the order.

25 (c) This section shall become operative on January 1, 2019.

26 ~~SEC. 83.~~

27 *SEC. 82.* Section 22716 of the Financial Code is amended to
28 read:

29 22716. (a) The revocation, suspension, expiration, or surrender
30 of any license does not impair or affect the obligation of any
31 preexisting lawful contract between the licensee and any borrower.

32 (b) This section shall remain in effect only until January 1, 2019,
33 and as of that date is repealed.

34 ~~SEC. 84.~~

35 *SEC. 83.* Section 22716 is added to the Financial Code, to read:

36 22716. (a) The revocation, suspension, expiration, or surrender
37 of any license does not impair or affect the obligation of any
38 preexisting lawful contract between the licensee and any borrower
39 or property owner, nor the validity and enforceability of any bonds
40 issued and secured by such contracts. This division does not affect

1 the validity and enforceability of any PACE assessment contracts
2 entered into or bonds issues and secured by such contracts.

3 (b) This section shall become operative on January 1, 2019.

4 ~~SEC. 85.~~

5 *SEC. 84.* Section 22753 of the Financial Code is amended to
6 read:

7 ~~22753. (a) Exception provided in Section 22694, Except as~~
8 ~~provided in Section 22696, any person who willfully violates any~~
9 ~~provision of this division or who willfully violates any rule or~~
10 ~~order adopted pursuant to this division, shall, upon conviction, be~~
11 ~~punished by a fine of not more than ten thousand dollars (\$10,000),~~
12 ~~by imprisonment in a county jail for not more than one year or~~
13 ~~pursuant to subdivision (h) of Section 1170 of the Penal Code, or~~
14 ~~by both that fine and imprisonment. However, no person may be~~
15 ~~imprisoned for the violation of any rule or order unless he or she~~
16 ~~had knowledge of the rule or order. Conviction under this section~~
17 ~~shall not preclude the commissioner from exercising the authority~~
18 ~~in Section 22713.~~

19 ~~SEC. 86.~~

20 *SEC. 85.* Section 22758 is added to the Financial Code, to read:

21 22758. This article does not apply to a program administrator
22 or a PACE solicitor.

23 ~~SEC. 87.~~

24 *SEC. 86.* Section 22780 of the Financial Code is amended to
25 read:

26 22780. Except as provided in Section ~~22694, 22696~~, any person
27 who willfully violates any provision of this division, or who
28 willfully violates any rule or order adopted pursuant to this
29 division, shall, upon conviction, be punished by a fine of not more
30 than ten thousand dollars (\$10,000), by imprisonment in a county
31 jail for not more than one year or pursuant to subdivision (h) of
32 Section 1170 of the Penal Code, or by both that fine and
33 imprisonment. However, no person may be imprisoned for the
34 violation of any rule or order unless he or she had knowledge of
35 the rule or order. Conviction under this section shall not preclude
36 the commissioner from exercising the authority provided in Section
37 22713.

38 This article does not apply to a program administrator or PACE
39 solicitor.

~~SEC. 88.~~

SEC. 87. This act does not impose any additional obligations on, nor does it expand or any way affect the authority of the Commissioner of Business Oversight over, a finance lender, mortgage loan originator, or broker licensee under the California Financing Law.

~~SEC. 89.—The~~

SEC. 88. *Notwithstanding any other law to the contrary, the* Commissioner of Business Oversight may, on or after ~~January 1, 2018, the effective date of this act,~~ take any necessary actions using the authority granted by this act in order to ensure that the licensing of program administrators and enrollment of PACE solicitors may commence by January 1, 2019, including, but not limited to, the adoption of regulations and preparation of necessary forms and procedures.

~~SEC. 90.~~

SEC. 89. The Legislature finds and declares that creating a comprehensive scheme to regulate program administrators is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to program administrators managing PACE programs on behalf of any public agency, including a charter city.

~~SEC. 91.~~

SEC. 90. The Legislature finds and declares that Section ~~72~~ *71* of this act, which adds Section 22690 of the Financial Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of a program administrator, PACE solicitor, or PACE solicitor agent who has complied with the Commissioner of Business Oversight's demands, or otherwise reached a mutually agreeable resolution of any issues, during an investigation it is necessary to hold any examinations and correspondence related to that investigation confidential.

1 ~~SEC. 92.~~

2 ~~SEC. 91.~~ No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 ~~SEC. 92.~~ *This act is an urgency statute necessary for the*
12 *immediate preservation of the public peace, health, or safety within*
13 *the meaning of Article IV of the California Constitution and shall*
14 *go into immediate effect. The facts constituting the necessity are:*

15 ~~Residential PACE assessments are among the fastest-growing~~
16 ~~types of property-secured financing in California, with cumulative~~
17 ~~assessments growing from \$350 million in 2014 to over \$2.6 billion~~
18 ~~in 2017. Companies administering PACE programs on behalf of~~
19 ~~California municipal governments have no state or national~~
20 ~~regulator and there are no requirements for these program~~
21 ~~administrators to determine a property owners ability to pay the~~
22 ~~PACE assessments. Further, recent reports indicate that default~~
23 ~~rates are rising, signaling the need for important consumer~~
24 ~~protections and government oversight. Therefore, in order that~~
25 ~~changes to the California Financing Law and the Property~~
26 ~~Assessed Clean Energy program with respect to program~~
27 ~~administrators take effect as soon as possible and to provide the~~
28 ~~Commissioner of Business Oversight with the statutory authority~~
29 ~~to begin the rulemaking process in order to carry out these changes~~
30 ~~and ensure that consumers are protected as soon as possible, it is~~
31 ~~necessary that this act take effect immediately.~~

O

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number:	AB 1357 (Chu)
Status/Location:	Amended 7/16/17 – Governor’s Desk
Sponsor:	HomeGuard Incorporated
Subject:	Roofing Contractors: Roof Inspections
Code Section:	Business & Professions Code section 7197

Summary:

Existing Law:

1. Regulates a person who performs certain home inspections for a fee.
2. Provides that it is an unfair business practice for a home inspector, a company that employs the inspector, or a company that is controlled by a company with a financial interest in a company employing a home inspector, to engage in various acts, including performing or offering to perform, for an additional fee, any repairs to a structure for which the inspector, or the inspector’s company, has prepared a home inspection report in the past 12 months.

This Bill:

1. Provides that the existing prohibition does not affect the ability of a roofing contractor who holds a C-39 license to perform repairs pursuant to his or her inspection of a roof for the specific purpose of providing a roof certification, if all of the following conditions are met:
 - (a) Different employees perform the home inspection and the roof inspection.
 - (b) The roof inspection is ordered prior to, or at the same time as, the home inspection, or the roof inspection is completed before the commencement of the home inspection,
 - (c) The consumer is provided a disclosure before he or she authorizes the home inspection that includes all of the following:
 - 1) The same company that performs the roof inspection and roof repairs will perform the home inspection on the same property.
 - 2) Any repairs authorized by the consumer are for those identified in the roofing contractor’s roof inspection report and that no repairs identified in the home inspection are authorized or allowed.
 - 3) The consumer has the right to seek a second opinion.
2. Defines “roof certification” to mean a written statement by any licensed C-39 Roofing contractor who has performed a roof inspection, made any necessary repairs, and determines that the roof is free of visible defects at the time he or she issues the certification and should perform as designed for the specified term of the certification.
3. Includes a report or opinion, prepared by a C-39 Roofing contractor who performs a home inspection under specified circumstances, among those reports

upon which a listing or selling agent may base his or her personal knowledge in order to be exempt from liability for any error, inaccuracy, or omission in the information that is required to be disclosed upon the transfer of residential real property

Background:

According to the author:

"[This bill] seeks to add clarifying language to the law, similar to what has been in law for over a decade for pest inspectors, providing licensed roof inspectors the ability to make roof repair to homes they have inspected, even if the same company has also performed a home inspection on the same property. [This bill] provides consumers with the option to hire the same licensed roofing contractor who has identified the needed roof repairs. Currently, if a consumer has had a home inspection and a roof inspection performed by the same company, they would need to search for another roofing contractor to make repairs identified in the roof inspection. [This bill] enhances consumer choice while maintaining the same consumer protections provided by the [CSLB] for licensed roofing contractors."

Fiscal Impact for CSLB:

None.

Board Position and Comments:

WATCH. This bill does not directly impact CSLB, as CSLB does not enforce or administer the provisions of law related to home inspections. When CSLB receives complaints related to inspections, it is not able to take action. This bill could result in an increase in the number of complaints that CSLB can investigate, if more licensees are performing work or repairs as the result of an inspection.

Date: September 14, 2017

AMENDED IN SENATE JULY 6, 2017
AMENDED IN SENATE JUNE 19, 2017
AMENDED IN ASSEMBLY MAY 17, 2017
AMENDED IN ASSEMBLY MAY 2, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1357

Introduced by Assembly Member Chu

February 17, 2017

An act to amend Section 7197 of the Business and Professions Code, and to amend Section 1102.4 of the Civil Code, relating to home inspectors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1357, as amended, Chu. Home inspectors: roofing contractors: roof inspections.

Existing law regulates a person who performs certain home inspections for a fee. Existing law provides that it is an unfair business practice for a home inspector, a company that employs the inspector, or a company that is controlled by a company that also has a financial interest in a company employing a home inspector, to do various acts, including performing or offering to perform, for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has prepared a home inspection report in the past 12 months.

This bill would exempt from these provisions a licensed roofing contractor that performs repairs pursuant to his or her inspection of a roof for the specific purpose of providing a roof certification, as defined, if specified conditions are met.

Existing law requires the disclosure of specified information upon the transfer of residential real property or the resale of a manufactured home or mobilehome that is classified as personal property and intended for residential use. Existing law exempts a listing or selling agent from liability for any error, inaccuracy, or omission of any information if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or listing or selling agent, was based on information provided by public agencies or by other persons, including a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license and providing information that is required to be disclosed, and ordinary care was exercised in obtaining and transmitting the information.

This bill would include a report or opinion, prepared by a C-39 roofing contractor who performs a home inspection under specified circumstances, among those reports upon which a listing or selling agent may base his or her personal knowledge in order to be exempt from liability for any error, inaccuracy, or omission in the information that is required to be disclosed upon the transfer of residential real property.

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. Section 7197 of the Business and Professions
- 2 Code is amended to read:
- 3 7197. (a) It is an unfair business practice for a home inspector,
- 4 a company that employs the inspector, or a company that is
- 5 controlled by a company that also has a financial interest in a
- 6 company employing a home inspector, to do any of the following:
- 7 (1) To perform or offer to perform, for an additional fee, any
- 8 repairs to a structure on which the inspector, or the inspector's
- 9 company, has prepared a home inspection report in the past 12
- 10 months.
- 11 (2) Inspect for a fee any property in which the inspector, or the
- 12 inspector's company, has any financial interest or any interest in
- 13 the transfer of the property.
- 14 (3) To offer or deliver any compensation, inducement, or reward
- 15 to the owner of the inspected property, the broker, or agent, for

1 the referral of any business to the inspector or the inspection
2 company.

3 (4) Accept an engagement to make an inspection or to prepare
4 a report in which the employment itself or the fee payable for the
5 inspection is contingent upon the conclusions in the report,
6 preestablished findings, or the close of escrow.

7 (b) A home protection company that is affiliated with or that
8 retains the home inspector does not violate this section if it
9 performs repairs pursuant to claims made under the home
10 protection contract.

11 (c) This section shall not affect the ability of a structural pest
12 control operator to perform repairs pursuant to Section 8505 as a
13 result of a structural pest control inspection.

14 (d) Paragraph (1) of subdivision (a) shall not affect the ability
15 of a roofing contractor who holds a C-39 license, as defined in
16 Section 832.39 of Title 16 of the California Code of Regulations,
17 to perform repairs pursuant to the contractor's inspection of a roof
18 for the specific purpose of providing a roof certification if all of
19 the following conditions are met:

20 (1) Different employees perform the home inspection and the
21 roof inspection.

22 (2) The roof inspection is ordered prior to, or at the same time
23 as, the home inspection, or the roof inspection is completed before
24 the commencement of the home inspection.

25 (3) The consumer is provided a consumer disclosure before he
26 or she authorizes the home inspection that includes all of the
27 following:

28 (A) The same company that performs the roof inspection and
29 roof repairs will perform the home inspection on the same property.

30 (B) Any repairs that are authorized by the consumer are for the
31 repairs identified in the roofing contractor's roof inspection report
32 and no repairs identified in the home inspection are authorized or
33 ~~allowed~~. *allowed as specified in the roof inspection.*

34 (C) The consumer has the right to seek a second opinion.

35 (4) For purposes of this subdivision, "roof certification" means
36 a written statement by a licensed C-39 Roofing Contractor who
37 has performed a roof inspection, made any necessary repairs, and
38 warrants that the roof is free of leaks at the time that the
39 certification is issued and should perform as designed for the
40 specified term of the certification.

1 SEC. 2. Section 1102.4 of the Civil Code is amended to read:

2 1102.4. (a) Neither the transferor nor any listing or selling
3 agent shall be liable for any error, inaccuracy, or omission of any
4 information delivered pursuant to this article if the error,
5 inaccuracy, or omission was not within the personal knowledge
6 of the transferor or that listing or selling agent, was based on
7 information timely provided by public agencies or by other persons
8 providing information as specified in subdivision (c) that is
9 required to be disclosed pursuant to this article, and ordinary care
10 was exercised in obtaining and transmitting it.

11 (b) The delivery of any information required to be disclosed by
12 this article to a prospective transferee by a public agency or other
13 person providing information required to be disclosed pursuant to
14 this article shall be deemed to comply with the requirements of
15 this article and shall relieve the transferor or any listing or selling
16 agent of any further duty under this article with respect to that item
17 of information.

18 (c) The delivery of a report or opinion prepared by a licensed
19 engineer, land surveyor, geologist, structural pest control operator,
20 contractor, ~~a home inspector conducting a home inspection C-39~~
21 *roofing contractor conducting a roof inspection* pursuant to
22 subdivision (d) of Section 7197 of the Business and Professions
23 Code, or other expert, dealing with matters within the scope of the
24 professional's license or expertise, shall be sufficient compliance
25 for application of the exemption provided by subdivision (a) if the
26 information is provided to the prospective transferee pursuant to
27 a request therefor, whether written or oral. In responding to such
28 a request, an expert may indicate, in writing, an understanding that
29 the information provided will be used in fulfilling the requirements
30 of Section 1102.6 and, if so, shall indicate the required disclosures,
31 or parts thereof, to which the information being furnished is
32 applicable. Where such a statement is furnished, the expert shall
33 not be responsible for any items of information, or parts thereof,
34 other than those expressly set forth in the statement.

O

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number: SB 242 (Skinner)
Status/Location: Amended 8/28/17 – Governor’s Desk
Sponsor: None
Subject: Property Assessed Clean Energy Program: Program Administrator
Code Section: Chapter 29.1 – Streets and Highways Code

Summary:

This bill establishes new requirements and conditions for Property Assessed Clean Energy (PACE) third-party program administrators.

This analysis will focus on the bill’s impact to homeowners and contractors.

Existing Law, the PACE financing program, authorizes a public agency to authorize officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources of water efficiency improvements that are permanently fixed to real property.

This Bill:

1. Applies exclusively to residential real property of four or fewer units.
2. Requires program administrators to orally provide specified information before executing a contract, including the following:
 - (a) That the owner has the terms and right to cancel forms.
 - (b) The total estimated annual costs the owner will pay under the contract.
 - (c) The total estimated average monthly amount of funds the owner would have to save in order to pay the costs under the PACE assessment.
 - (d) That the property shall be subject to a lien during the term of the assessment contract, and that the obligations may be required to be paid in full before the owner sells or refinances the property.
 - (e) Any potential utility savings are not guaranteed.
 - (f) The owner has a three-business day right to cancel.
3. Requires the administrator to record the oral confirmation.
4. Specifies that an administrator shall not permit contractors or other third parties to advertise the availability of assessment contracts, unless both of the following requirements are met:
 - (a) The contractor or third party maintains in good standing an appropriate license from the Contractors State License Board, as well as any other required licenses or permits.

- (b) The administrators obtain the contractor's or third party's written agreement that the contractor or third party will act in accordance with applicable advertising and marketing laws and regulations, and all other applicable laws.
- 5. Prohibits a program administrator from providing a contractor or third party soliciting assessment contracts on its behalf from disclosing the amount of funds for which a property owner is eligible under a PACE assessment of the amount of equity in a property.
- 6. Provides that a contractor shall not provide a different price for a project financed by a PACE assessment than the contractor would provide if paid in cash by the owner.
- 7. Further provides that it is unlawful to commence work under a home improvement contract, and the home improvement contract shall be unenforceable, if both of the following occur:
 - (a) The owner entered into the contract based on the reasonable belief that the work would be covered by PACE.
 - (b) The owner applies for, accepts, and cancels the PACE financing within the right to cancel period.
- 8. Provides that if work commences in violation of the above limitation, than:
 - (a) The contractor is entitled to no compensation and he or she shall restore the property to its original condition at no cost to the owner.
 - (b) The contractor shall immediately and without condition return all money, property, and other consideration given by the owner.
 - (c) If the contractor has delivered any property to the owner, the owner shall make it available for return within 90 days.
- 9. Allows the owner to waive these protections under limited circumstances, in an emergency.

Background:

According to the author, "With the growing use of PACE financing, last May PACE Nation, a non-profit representing PACE providers, local governments and environmental organizations, published a comprehensive set of recommended consumer protection policies for PACE. Additionally last November the Federal Department of Energy published Best Practices Guidelines for Residential PACE Programs. SB 242 incorporates many of the consumer protections and best practices recommended by PACE Nation and US DOE, including that PACE contractors are properly licensed."

Prior versions of this bill contained additional requirements; this bill was amended to only address issues that had consensus from stakeholders.

Support:

Advanced Energy Economy
Association of Energy Engineers
Build it Green
Calasian Chamber of Commerce
California Energy Efficiency Industry Council
California Solar Energy Industries Association

California State Association of Counties
Center for Sustainable Energy
City of Indian Wells
City of Rancho Cucamonga
City of Thousand Oaks
Cleantech San Diego
Climate Action Campaign
Efficiency First California
League of California Cities
Natural Resources Defense Council
Renew Financial
Renovate America
Vote Solar
WattzOn
Ygrene

Opposition:

California Association of Treasurers and Tax Collectors

Fiscal Impact for CSLB:

Unknown.

Staff Recommendation and Comments:

WATCH. This bill does not directly impact CSLB, but does affect licensees and addresses an issue of interest to the Board.

Date: September 27, 2017

AMENDED IN ASSEMBLY AUGUST 28, 2017

AMENDED IN ASSEMBLY JULY 13, 2017

AMENDED IN ASSEMBLY JULY 3, 2017

AMENDED IN ASSEMBLY JUNE 22, 2017

AMENDED IN SENATE MAY 18, 2017

AMENDED IN SENATE APRIL 26, 2017

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017

SENATE BILL

No. 242

Introduced by Senator Skinner

(Coauthor: Assembly Member Dababneh)

February 6, 2017

An act to add Chapter 29.1 (commencing with Section 5900) to Part 3 of Division 7 of the Streets and Highways Code, relating to the Property Assessed Clean Energy program.

LEGISLATIVE COUNSEL'S DIGEST

SB 242, as amended, Skinner. Property Assessed Clean Energy program: program administrator.

Existing law, known commonly as a *Property Assessed Clean Energy (PACE) financing program*, authorizes a public agency, by making specified findings, to authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to

real property. Existing law similarly authorizes a community facilities district to be formed pursuant to an alternative procedure under which the district initially consists solely of territory proposed for annexation to the community facilities district in the future and territory is annexed and subjected to special taxes only upon unanimous approval of the owners, to finance and refinance the acquisition, installation, and improvement of energy efficiency, water conservation, and renewable energy improvements. Existing law authorizes a public agency, or an entity that administers a ~~Property Assessed Clean Energy (PACE)~~ PACE financing program on behalf of and with the written consent of a public agency, to issue PACE bonds that are secured by voluntary contractual assessments, voluntary special taxes, or special taxes on property to assist property owners in financing the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

~~This~~

The bill would require a program administrator, before a property owner executes an assessment contract, as defined, to make an oral confirmation that at least one owner of the property has a copy of specified documents and forms related to the contract, and to provide an oral confirmation of the key terms of an assessment contract with the property owner on the call or an authorized representative of the owner on the call that contains specified information. The bill would require a program administrator to record the oral confirmation, and to retain that recording for a specified period of time. The bill would require a program administrator to ask if the property owner would prefer the oral confirmation be provided in a language other than English, and would require the program administrator to deliver the oral confirmation in the property owner's language or via an interpreter chosen by the property owner in order for the contract to proceed, and would require the program administrator to provide the property owner with the translation of specified documents. This bill would prohibit a program administrator from waiving or deferring the first payment on an assessment contract, and would require that a property owner's first assessment payment be due no later than the fiscal year following the fiscal year in which the installation of the efficiency improvement is completed.

The bill would prohibit a contractor or other 3rd party from advertising the availability of an assessment contract that is administered by a program administrator, or from soliciting property owners on behalf of

the program administrator, unless specified requirements are met. The bill would prohibit a program administrator from providing direct or indirect cash payments or anything of a material value to a contractor or 3rd party that is in excess of the actual price charged to the property owner for the sale or installation of efficiency improvements financed by an assessment contract, except for reimbursement of ~~expenses~~, *bona fide and reasonable training expenses related to PACE financing*, as provided. The bill would also prohibit a program administrator from providing direct or indirect cash payments or anything of a material value to a property owner that is explicitly conditioned upon the property owner entering into the assessment contract. The bill would prohibit a program administrator, contractor, or other 3rd party from making any representation as to the tax deductibility of an assessment contract, unless that representation is consistent with applicable state and federal law. The bill would prohibit a program administrator from providing information that discloses specified information relating to the property owner or the property. *The bill would prohibit a contractor from providing a different price for a project financed by a PACE assessment than the contractor would provide if paid in cash by the property owner.*

Existing law prohibits a public agency from permitting a property owner to participate in a PACE program unless the property owner satisfies certain conditions and the property owner is given the right to cancel the contractual assessment at any time before midnight on the 3rd business day after certain events occur, without penalty or obligation, consistent with certain requirements. Existing law requires a home improvement contract to be in writing and to contain certain information, notices, and disclosures, including a statement that a consumer has a right to cancel or rescind the contract within 3 days, and authorizes the consumer to waive that right to cancel in the case of an emergency or immediately necessary repairs.

The bill would make it unlawful to commence work under a home improvement contract if the property owner entered into the home improvement contract based on the reasonable belief that the work would be covered by the PACE program, and the property owner rescinds the PACE financing within the 3-day time period described above. The bill would require a contractor who violates that provision to restore the property to its original condition, and to return any money, property, and other consideration back to the property owner. The bill would authorize a property owner to waive his or her right to cancel

for a contract that the property owner initiated for emergency repair or immediately necessary repair, as provided.

The bill would require a program administrator, for each PACE program that it administers, to submit reports to the public agency by a specified time that contains specified information regarding that program.

This bill would include findings that the changes proposed by this bill address a matter of statewide concern, and therefore shall apply to all cities and counties, including charter cities.

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

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

SECTION 1. Chapter 29.1 (commencing with Section 5900) is added to Part 3 of Division 7 of the Streets and Highways Code, to read:

CHAPTER 29.1. CLEAN ENERGY ASSESSMENT CONTRACTS

5900. The provisions of this article shall apply exclusively to residential real property with four or fewer units.

5901. The provisions of this chapter shall not apply to any public agency that does not use a program administrator to administer a PACE program.

5902. For purposes of this chapter:

(a) "Assessment contract" means an agreement entered into between all property owners of record on real property and a public agency in which, for voluntary contractual assessments imposed on the real property, the public agency provides a PACE assessment for the installation of one or more efficiency improvements on the real property in accordance with a PACE ~~program~~ *program, specified in paragraph (2) of subdivision (a) of Section 5898.20 or Section 5899 or 5899.3, or a special tax described in Section 53328.1 of the Government Code.*

(b) "Authorized representative" means an attorney-in-fact, as defined in Section 4014 of the Probate Code, or conservator of the estate, as defined in Section 2400 of the Probate Code, of the property owner.

(b)

1 (c) “Efficiency improvement” means one or more permanent
2 improvements fixed to real property.

3 ~~(e)~~

4 (d) “PACE assessment” means a voluntary contractual
5 assessment, voluntary special tax, or special tax, as described in
6 subdivisions (a), (b), and (c) of Section 26054 of the Public
7 Resources Code.

8 ~~(d)~~

9 (e) “PACE program” means a program in which financing is
10 provided for the installation of efficiency improvements on real
11 property and funded through the use of property assessments, as
12 well as other program components defined in this section,
13 established pursuant to any of the following:

14 (1) Chapter 29 (commencing with Section 5898.10) of Part 3
15 of this code.

16 (2) The Mello-Roos Community Facilities Act of 1982 (Chapter
17 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
18 Title 5 of the Government Code).

19 (3) A charter city’s constitutional authority under Section 5 of
20 Article XI of the California Constitution.

21 ~~(e)~~

22 (f) “Program administrator” means an entity administering a
23 PACE program on behalf of, and with the written consent of, a
24 public agency.

25 ~~(f)~~

26 (g) “Property owner” means all property owners of record on
27 the property subject to the PACE assessment.

28 ~~(g)~~

29 (h) “Public agency” means a city, including a charter city,
30 county, city and county, municipal utility district, community
31 services district, community facilities district, joint powers
32 authority, sanitary district, sanitation district, or water district, as
33 defined in Section 20200 of the Water Code, that has established
34 or participates in a PACE program, and utilizes a program
35 administrator.

36 5913. (a) (1) *Before a property owner executes an assessment*
37 *contract the program administrator shall do the following:*

38 (A) *Make an oral confirmation that at least one owner of the*
39 *property has a copy of the contract assessment documents required*
40 *by paragraph (2) of subdivision (a) of Section 5898.20 or Section*

1 5899 or 5899.3, or Section 53328.1 of the Government Code, as
2 applicable, with all the key terms completed, the financing estimate
3 and disclosure form specified in Section 5898.17, and the right to
4 cancel form specified in Section 5898.16, with hard copies
5 available upon request.

6 (B) Make an oral confirmation of the key terms of the assessment
7 contract, in plain language, with the property owner on the call
8 or to a verified authorized representative of the owner on the call
9 and shall obtain acknowledgment from the property owner on the
10 call to whom the oral confirmation is given.

11 (2) The oral confirmation required pursuant to paragraph (1)
12 shall include, but is not limited to, all the following information:

13 (A) The property owner on the call has the right to have other
14 persons present for the call, and an inquiry as to whether the
15 property owner would like to exercise the right to include anyone
16 else on the call. This shall occur at the onset of the call, after the
17 determination of the preferred language of communication.

18 (B) The property owner on the call is informed that they should
19 review the assessment contract and financing estimate and
20 disclosure form with all other owners of the property.

21 (C) The efficiency improvement being installed is being financed
22 by a PACE assessment.

23 (D) The total estimated annual costs the property owner will
24 have to pay under the assessment contract, including applicable
25 fees.

26 (E) The total estimated average monthly amount of funds the
27 property owner would have to save in order to pay the annual
28 costs under the PACE assessment, including applicable fees.

29 (F) That the county annual secured property tax bill, which will
30 include the installment of the PACE lien, will be mailed by the
31 county tax collector no later than November 1 each year, and that
32 if the lien is recorded after the fiscal year closes but before the
33 bill is mailed, the first installment may not appear on the county
34 tax bill until the following year.

35 (G) The term of the assessment contract.

36 (H) That payments on the assessment contract will be made
37 through an additional annual assessment on the property and paid
38 either directly to the county tax collector's office as part of the
39 total annual secured property tax bill, or through the property
40 owner's mortgage impound account, and that if the property owner

1 *pays his or her taxes through an impound account he or she should*
2 *notify their mortgage lender to discuss adjusting his or her monthly*
3 *mortgage payment by the estimated monthly cost of the PACE*
4 *assessment.*

5 *(I) That the property will be subject to a lien during the term of*
6 *the assessment contract and that the obligations under the*
7 *assessment contract may be required to be paid in full before the*
8 *property owner sells or refinances the property.*

9 *(J) That the property owner has disclosed whether the property*
10 *has received or is seeking additional PACE assessments and has*
11 *disclosed all other PACE assessments or special taxes that are or*
12 *about to be placed on the property, if known to and understood by*
13 *the property owner.*

14 *(K) That any potential utility savings are not guaranteed, and*
15 *will not reduce the assessment payments or total assessment*
16 *amount.*

17 *(L) That the program administrator and contractor do not*
18 *provide tax advice, and that the property owner should seek*
19 *professional tax advice if he or she has questions regarding tax*
20 *credits, tax deductibility, or of other tax impacts on the PACE*
21 *assessment or assessment contract.*

22 *(M) That if that property tax payment is delinquent within the*
23 *fiscal year, the county tax collector will assess a 10-percent penalty*
24 *and may assess related costs, as required by state law. A delinquent*
25 *payment also subjects the property to foreclosure. If the delinquent*
26 *payment continues past June 30 of a given year and defaults, the*
27 *county tax collector will assess penalties at the rate of 1 ½ percent*
28 *per month (18 percent per year), and the property will continue*
29 *to be subject to foreclosure and may become subject to the county*
30 *tax collector's right to sell the property at auction.*

31 *(N) That the property owner has a three-business day right to*
32 *cancel the assessment contract pursuant to subdivision (b) of*
33 *Section 5898.16, and that canceling the assessment contract may*
34 *also cancel the home improvement contract under Section 5940.*

35 *(b) The program administrator shall comply with the following*
36 *when giving the oral confirmation described in subdivision (a):*

37 *(1) The program administrator shall record the oral*
38 *confirmation in an audio format in accordance with applicable*
39 *laws.*

1 (2) *The program administrator may not comply with the*
2 *requirement in subdivision (a) through the use of a prerecorded*
3 *message, or other similar device or method.*

4 (3) *Recording of an oral confirmation shall be retained by the*
5 *program administrator for a period of at least five years from the*
6 *time of the recording.*

7 (c) *The provisions of this section shall be in addition to the*
8 *documents required to be provided to the property owner under*
9 *Sections 5898.16 and 5898.17.*

10 (d) *At the commencement of the oral confirmation, the program*
11 *administrator shall ask if the property owner on the call would*
12 *prefer to communicate during the oral confirmation primarily in*
13 *a language other than English that is specified in Section 1632 of*
14 *the Civil Code. If the preferred language is supported by the*
15 *program administrator, the oral confirmation shall be given in*
16 *that primary language, except where the property owner on the*
17 *call chooses to communicate through his or her own interpreter.*
18 *If the preferred language is not supported and an interpreter is*
19 *not chosen by the property owner on the call, the PACE assessment*
20 *transaction shall not proceed. For purposes of this subdivision,*
21 *“his or her own interpreter” means a person, who is not a minor,*
22 *is able to speak fluently and read with full understanding both the*
23 *English language and any of the languages specified in Section*
24 *1632 of the Civil Code, and who is not employed by, and whose*
25 *services are not made available through, the program*
26 *administrator, the public agency, or the contractor.*

27 (e) (1) *Beginning on January 1, 2019, if the oral confirmation*
28 *was conducted primarily in a language other than English that is*
29 *specified in Section 1632 of the Civil Code, the program*
30 *administrator shall deliver in writing the disclosures and contract*
31 *or agreement required by law, including, but not limited to, the*
32 *following:*

33 (A) *Assessment contract documents specified in paragraph (2)*
34 *of subdivision (a) of Section 5898.20 or Section 5899 or 5899.3,*
35 *or a special tax described in Section 53328.1 of the Government*
36 *Code.*

37 (B) *The financing estimate and disclosure form specified in*
38 *Section 5898.17.*

39 (C) *The right to cancel form specified in Section 5898.16.*

(2) *Before the execution of any contract or agreement described in paragraph (1), the program administrator shall deliver a translation of the disclosures, contract, or agreement in the language in which the oral confirmation was conducted, that includes a translation of every term and condition in that contract or agreement.*

~~5903.~~

5914. A program administrator may not waive or defer the first payment on an assessment contract. A property owner's first assessment payment shall be due no later than the fiscal year following the fiscal year in which the installation of the efficiency improvement is completed.

~~5904.~~

5922. A program administrator shall not permit contractors or other third parties to advertise the availability of assessment contracts that are administered by the program administrator, or to solicit property owners on behalf of the program administrator, unless both of the following requirements are met:

(a) The contractor or third party maintains in good standing an appropriate license from the Contractors' State Licensing Board, as well as any other permits, licenses, or registrations required for engaging in its business in the jurisdiction where it operates, and maintains the required bond and insurance coverage pursuant thereto.

(b) The program administrator obtains the contractor's or third party's written agreement that the contractor or third party will act in accordance with applicable advertising and marketing laws and regulations, and all other applicable laws.

~~5905.~~

~~5923. (a) Except as provided for in subdivision (b), a~~ A program administrator shall not provide any direct or indirect cash payment or other thing of material value to a contractor or third party in excess of the actual price charged by that contractor or third party to the property owner for the sale and installation of one or more efficiency improvements financed by an assessment contract.

~~(b) A program administrator is permitted to~~ *shall not* reimburse ~~documented a contractor or third party for expenses to a contractor or third party for approved co-branded for~~ advertising and marketing campaigns and ~~collateral, training, and training events.~~ *collateral.*

1 *A program administrator may reimburse a contractor's bona fide*
2 *and reasonable training expenses related to PACE financing,*
3 *provided that:*

4 *(1) The training expenses are actually incurred by the*
5 *contractor.*

6 *(2) The reimbursement does not exceed one hundred dollars*
7 *(\$100) per each salesperson or agent of the contractor who*
8 *participated in the training.*

9 *(3) The reimbursement is paid directly to the contractor, and*
10 *is not paid to its salespersons or agents.*

11 (c) A program administrator shall not provide any direct cash
12 payment or other thing of value to a property owner explicitly
13 conditioned upon that property owner entering into an assessment
14 contract. Notwithstanding the above, programs or promotions that
15 offer reduced fees or interest rates to property owners are neither
16 a direct cash payment or "other thing of value," provided that the
17 reduced fee or interest rate is reflected in the assessment contract
18 and in no circumstance provided to the property owner as cash
19 consideration.

20 ~~5906.~~

21 5924. A program administrator, contractor, or a third party
22 shall not make any representation as to the tax deductibility of an
23 assessment contract unless that representation is consistent with
24 representations, statements, or opinions of the Internal Revenue
25 Service or applicable state tax agency with regard to the tax
26 treatment of PACE assessments.

27 ~~5907.~~

28 5925. A program administrator shall not provide to a contractor
29 or third party engaged in soliciting assessment contracts on its
30 behalf any information that discloses the amount of funds for which
31 a property owner is eligible under a PACE assessment or the
32 amount of equity in a property.

33 5926. *A contractor shall not provide a different price for a*
34 *project financed by a PACE assessment than the contractor would*
35 *provide if paid in cash by the property owner.*

36 5940. (a) *It shall be unlawful to commence work under a home*
37 *improvement contract, and the home improvement contract shall*
38 *be unenforceable, if both of the following occur:*

1 (1) *The property owner entered into the home improvement*
2 *contract based on the reasonable belief that the work would be*
3 *covered by the PACE program.*

4 (2) *The property owner applies for, accepts, and cancels the*
5 *PACE financing within the right to cancel period set forth in*
6 *subdivision (b) of Section 5898.16.*

7 (b) *If work has commenced in violation of subdivision (a), then:*

8 (1) *The contractor is entitled to no compensation for that work.*

9 (2) *The contractor shall restore the property to its original*
10 *condition at no cost to the property owner.*

11 (3) *The contractor shall immediately and without condition*
12 *return all money, property, and other consideration given by the*
13 *property owner. If the property owner gave any property as*
14 *consideration and the contractor does not or cannot return it for*
15 *whatever reason, the contractor shall immediately return the fair*
16 *market value of the property or its value as designated in the*
17 *contract, whichever is greater.*

18 (c) (1) *If the contractor has delivered any property to the*
19 *property owner pursuant to a contract that is unenforceable under*
20 *subdivision (a), the property owner shall make the property*
21 *available to the contractor for return within 90 days of execution*
22 *of the contract provided that:*

23 (A) *The provisions of subdivision (b) have been met.*

24 (B) *The property can be practically returned to the contractor*
25 *and removed, at the contractor's expense, without leaving any*
26 *damage to the property owner's property.*

27 (2) *Failure of the contractor to comply with this subdivision*
28 *shall allow the property owner to retain without obligation in law*
29 *or equity any property provided pursuant to the unenforceable*
30 *contract.*

31 (d) *The property owner may waive the requirements in*
32 *subdivision (a) if all the following are met:*

33 (1) *The contract is executed in connection with the making of*
34 *emergency or immediately necessary repairs to protect persons*
35 *or real or personal property.*

36 (2) *The property owner initiated the contract for the emergency*
37 *repair or immediately necessary repair.*

38 (3) *The property owner provides a separate statement that is*
39 *handwritten in ink by a property owner and dated and signed by*
40 *each property owner, describing the situation that requires*

1 *immediate remedy, and expressly acknowledges that the contractor*
2 *has informed them of his or her right to cancel and that he or she*
3 *waive the right to cancel the sale.*

4 *(e) If the property owner waives his or her right to cancel on*
5 *the home improvement contract to allow the home improvement*
6 *contractor to proceed with installation, and then cancels his or*
7 *her PACE financing, it shall not invalidate the home improvement*
8 *contract.*

9 5954. *(a) For each PACE program that it administers, a*
10 *program administrator shall submit a report to the public agency*
11 *no later than February 1 for the activity that occurred between*
12 *July 1st through December 31st of the previous year, and another*
13 *report no later than August 1 for the activity that occurred between*
14 *January 1st through June 30th of that year. Those reports shall*
15 *contain the following information, along with all methodologies*
16 *and supporting assumptions or sources relied upon in preparing*
17 *the report:*

18 *(1) The number of PACE assessments funded, by city, county,*
19 *and ZIP Code.*

20 *(2) The aggregate dollar amount of PACE assessments funded,*
21 *by city, county, and ZIP Code.*

22 *(3) The average dollar amount of PACE assessments funded,*
23 *by city, county, and ZIP Code.*

24 *(4) The categories of installed efficiency improvements whether*
25 *energy or water efficiency, renewable energy, or seismic*
26 *improvements, and the percentage of PACE assessments*
27 *represented by each category type, on a number and dollar basis,*
28 *by city, county, and ZIP Code.*

29 *(5) The definition of default used by the program administrator.*

30 *(6) For each delinquent assessment:*

31 *(A) The total delinquent amount.*

32 *(B) The number and dates of missed payments.*

33 *(C) ZIP Code, city, and county in which the underlying property*
34 *is located.*

35 *(7) For each defaulted assessment:*

36 *(A) The total defaulted amount.*

37 *(B) The number and dates of missed payments.*

38 *(C) ZIP Code, city, and county in which the underlying property*
39 *is located.*

1 (D) *The percentage the defaults represent of the total*
2 *assessments within each ZIP Code.*

3 (E) *The total number of parcels defaulted and the number of*
4 *years in default for each property.*

5 (8) *The estimated total amount of energy saved, and the*
6 *estimated total dollar amount of those savings by property owners*
7 *by the efficiency improvements installed in the calendar year, by*
8 *city, county, and ZIP Code. In addition, the report shall state the*
9 *total number of energy savings improvements, and number of*
10 *improvements installed that are qualified for the Energy Star*
11 *program of the United States Environmental Protection Agency,*
12 *including the overall average efficiency rating of installed units*
13 *for each product type.*

14 (9) *The estimated total amount of renewable energy produced*
15 *by the efficiency improvements installed in the calendar year, by*
16 *city, county, and ZIP Code. In addition, the report shall state the*
17 *total number of renewable energy installations, including the*
18 *average and median system size.*

19 (10) *The estimated total amount of water saved, and the*
20 *estimated total dollar amount of such savings by property owners,*
21 *by city, county, and ZIP Code. In addition, the report shall state*
22 *the total number of water savings improvements, the number of*
23 *efficiency improvements that are qualified for the WaterSense*
24 *program of the United States Environmental Protection Agency,*
25 *including the overall average efficiency rating of installed units*
26 *for each product type.*

27 (11) *The estimated amount of greenhouse gas emissions*
28 *reductions.*

29 (12) *The estimated number of jobs created.*

30 (13) *The average and median amount of annual and total PACE*
31 *assessments based on ZIP Code, by city, county, and ZIP Code.*

32 (14) *The number and percentage of homeowners over 60 years*
33 *old by city, county, and ZIP Code.*

34 (b) *All reports submitted pursuant to this section shall include*
35 *only aggregate data, and shall not include any nonpublic personal*
36 *information.*

37 (c) *A public agency that receives a report pursuant to this*
38 *section shall make the data publicly available on its Internet Web*
39 *site.*

- 1 *(d) This section does not limit another governmental or*
2 *regulatory entity from establishing reporting requirements.*
3 SEC. 2. This act addresses a matter of statewide concern and
4 therefore shall apply equally to all cities and counties, including
5 charter cities.

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CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number:	SB 486 (Monning)
Status/Location:	Amended 4/20/17 – Governor’s Desk
Sponsor:	Contractors State License Board
Subject:	Letter of Admonishment
Code Section:	Business & Professions Code sections 7099.2 & 7124.6

Summary:

Existing law authorizes the CSLB Registrar, if there is probable cause to believe that a licensee or applicant has committed any acts or omissions that are grounds for suspension, revocation, or denial of a license, to issue a citation to the licensee or applicant.

This Bill:

1. Authorizes the CSLB Registrar to issue a letter of admonishment in lieu of a citation.
2. Requires that the letter of admonishment be in writing and describe the nature and facts of the violation, and inform the licensee or applicant that within 30 days the license or applicant may do either of the following:
 - a) Submit to the Registrar a written request for an office conference to contest the letter of admonishment. Specifies that the office conference is an informal process not subject to the Administrative Procedure Act. Provides that the Registrar may then affirm, modify, or withdraw the letter of admonishment.
 - b) Comply with the letter of admonishment and, if required, submit a written corrective action plan to the Registrar documenting compliance. If an office conference is not requested, specifies that compliance with the letter of admonishment does not constitute an admission of the violation.
3. Provides that this authority does not in any way limit the ability to issue a citation or institute disciplinary proceedings.
4. Specifies that the letter of admonishment shall not be construed as a disciplinary action.
5. Prohibits the issuance of a letter of admonishment when any one of the following factors is present:
 - a) The licensee, registrant, or applicant was unlicensed at the time of the violation.
 - b) Multiple violations have been established.
 - c) The licensee, registrant, or applicant has a history of the same or similar violations.
 - d) The violation resulted in financial harm to another.
 - e) The victim is an elder or dependent adult.

- f) The violation is related to the repair of damage created by a natural disaster.
6. Provides that a letter of admonishment shall be publicly disclosed for one year.

Fiscal Impact for CSLB:

Absorbable.

Board Position and Comments:

SUPPORT. CSLB currently has authority to issue a citation to a licensee or applicant for a violation of contractors' state license law. The existing citation program works well, however, it has become costly to operate. As a citation affords the same right to appeal as an accusation, there is no shortage of appealed citations every year. The average cost to CSLB for an appeal is \$9,860, whether or not the respondent appears at the hearing. CSLB believes that this letter of admonishment will increase opportunities to settle offenses, while still providing correction of the offending behavior. It will also provide for public disclosure, by posting the issuance of a letter of admonishment online for one year.

Date: September 7, 2017

AMENDED IN SENATE APRIL 20, 2017

AMENDED IN SENATE MARCH 28, 2017

SENATE BILL

No. 486

**Introduced by Senator Monning
(Coauthors: Senators Berryhill, Hill, and Moorlach)**

February 16, 2017

An act to amend Sections 7099.2 and 7124.6 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 486, as amended, Monning. Contractors' State License Law: letter of admonishment.

(1) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law also provides for the registration and regulation of home improvement salespersons by the board. Existing law requires the board to appoint a registrar of contractors who is the executive officer and secretary of the board and is responsible for carrying out specified administrative duties. If, upon investigation, the registrar has probable cause to believe that a licensee or an applicant for a license under existing law has committed any acts or omissions that are grounds for denial, revocation, or suspension of license, he or she, in lieu of a specified proceeding, may issue a citation to the licensee or applicant.

This bill would authorize the registrant to issue a written and detailed letter of admonishment to an applicant, licensee, or registrant instead of issuing a citation if, upon investigation, the registrar has probable cause to believe that a licensee, registrant, or applicant has committed acts or omissions that are grounds for denial, suspension, or revocation

of a license or registration. The bill would require the letter to inform the applicant, licensee, or registrant that he or she may submit a written request for an office conference to contest the letter of admonishment, subject to specified procedures, including a process to appeal a decision, or comply with the letter, as provided. *The bill would prohibit the board from issuing a letter of admonishment when specified factors are present. The bill would authorize the board to adopt regulations to further define the circumstances under which a letter of admonishment may be issued.*

Existing law requires the registrar to make available to members of the public the date, nature, and status of all complaints on file against a licensee that meet specific qualifications. Under existing law, complaints resolved in favor of the contractor are not subject to disclosure.

The bill would distinguish a letter of admonishment from a complaint resolved in favor of the contractor and would require a letter of admonishment to be disclosed for a year.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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. It is the intent of the Legislature that the
- 2 Contractors' State License Board only issue letters of
- 3 admonishment to applicants, licensees, or registrants for minor
- 4 violations that do not involve financial harm to the consumer and
- 5 do not result in serious illness or injury.
- 6 SEC. 2. Section 7099.2 of the Business and Professions Code
- 7 is amended to read:
- 8 7099.2. (a) The board shall promulgate regulations covering
- 9 the assessment of civil penalties under this article that give due
- 10 consideration to the appropriateness of the penalty with respect to
- 11 the following factors:
- 12 (1) The gravity of the violation.

1 (2) The good faith of the licensee or applicant for licensure
2 being charged.

3 (3) The history of previous violations.

4 (b) Except as otherwise provided by this chapter, no civil penalty
5 shall be assessed in an amount greater than five thousand dollars
6 (\$5,000). Notwithstanding Section 125.9, a civil penalty not to
7 exceed fifteen thousand dollars (\$15,000) may be assessed for a
8 violation of Section 7114 or 7118.

9 (c) If, upon investigation, the registrar has probable cause to
10 believe that a licensee, registrant, or applicant has committed acts
11 or omissions that are grounds for denial, suspension, or revocation
12 of a license or registration, the registrar, or his or her designee,
13 may issue a letter of admonishment to an applicant, licensee, or
14 registrant in lieu of issuing a citation. Nothing in this article shall
15 in any way limit the registrar's discretionary authority or ability
16 to issue a letter of admonishment as prescribed by this subdivision.

17 (1) The letter of admonishment shall be in writing and shall
18 describe in detail the nature and facts of the violation, including a
19 reference to the statutes or regulations violated. The letter of
20 admonishment shall inform the licensee, registrant, or applicant
21 that within 30 days of service of the letter of admonishment the
22 licensee, registrant, or applicant may do either of the following:

23 (A) Submit a written request for an office conference to the
24 registrar to contest the letter of admonishment. Upon a timely
25 request, the registrar, or his or her designee, shall hold an office
26 conference with the licensee, registrant, or applicant and, if
27 applicable, his or her legal counsel or authorized representative.

28 (i) No individual other than the legal counsel or authorized
29 representative of the licensee, registrant, or applicant may
30 accompany the licensee, registrant, or applicant to the office
31 conference.

32 (ii) Prior to or at the office conference, the licensee, registrant,
33 or applicant may submit to the registrar declarations and documents
34 pertinent to the subject matter of the letter of admonishment.

35 (iii) The office conference is intended to be informal and shall
36 not be subject to the Administrative Procedure Act (Chapter 4.5
37 (commencing with Section 11400) or Chapter 5 (commencing with
38 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
39 Code).

(iv) After the office conference, the registrar, or his or her designee, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the registrar, or his or her designee, shall personally serve or send the written decision by certified mail to the licensee's, registrant's, or applicant's address of record. This decision shall be deemed the final administrative decision concerning the letter of admonishment.

(v) Judicial review of the decision may be had by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days after the date the decision was personally served or sent by certified mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the letter of admonishment or in the decision after the office conference.

(B) Comply with the letter of admonishment and, if required, submit a written corrective action plan to the registrar documenting compliance. If an office conference is not requested pursuant to this section, compliance with the letter of admonishment shall not constitute an admission of the violation noted in the letter of admonishment.

(2) The letter of admonishment shall be served upon the licensee, registrant, or applicant personally or by certified mail at his or her address of record with the board. If the licensee, registrant, or applicant is served by certified mail, service shall be effective upon deposit in the United States mail.

(3) The licensee, registrant, or applicant shall maintain and have readily available a copy of the letter of admonishment and corrective action plan, if any, for at least one year from the date of issuance of the letter of admonishment.

(4) Nothing in this subdivision shall in any way limit the board's authority or ability to do either of the following:

(A) Issue a citation pursuant to Section 125.9, 148, or 7099.

(B) Institute disciplinary proceedings pursuant to this article.

(5) The issuance of a letter of admonishment shall not be construed as a disciplinary action or discipline for purposes of licensure or the reporting of discipline for licensure.

(6) *The board shall not issue a letter of admonishment when any one of the following factors is present:*

1 (A) *The licensee, registrant, or applicant was unlicensed at the*
2 *time of the violation.*

3 (B) *Multiple violations have been established.*

4 (C) *The licensee, registrant, or applicant has a history of the*
5 *same or similar violations.*

6 (D) *The violation resulted in financial harm to another.*

7 (E) *The victim is an elder or dependent adult as defined in*
8 *Section 368 of the Penal Code.*

9 (F) *The violation is related to the repair of damage caused by*
10 *a natural disaster.*

11 (7) *The board may adopt regulations to further define the*
12 *circumstances under which a letter of admonishment may be issued.*

13 SEC. 3. Section 7124.6 of the Business and Professions Code
14 is amended to read:

15 7124.6. (a) The registrar shall make available to members of
16 the public the date, nature, and status of all complaints on file
17 against a licensee that do either of the following:

18 (1) Have been referred for accusation.

19 (2) Have been referred for investigation after a determination
20 by board enforcement staff that a probable violation has occurred,
21 and have been reviewed by a supervisor, and regard allegations
22 that if proven would present a risk of harm to the public and would
23 be appropriate for suspension or revocation of the contractor's
24 license or criminal prosecution.

25 (b) The board shall create a disclaimer that shall accompany
26 the disclosure of a complaint that shall state that the complaint is
27 an allegation. The disclaimer may also contain any other
28 information the board determines would be relevant to a person
29 evaluating the complaint.

30 (c) (1) A complaint resolved in favor of the contractor shall not
31 be subject to disclosure.

32 (2) A complaint resolved by issuance of a letter of
33 admonishment pursuant to Section 7099.2 shall not be deemed
34 resolved in favor of the contractor for the purposes of this section.
35 A letter of admonishment issued to a licensee shall be disclosed
36 for a period of one year from the date described in paragraph (2)
37 of subdivision (c) of Section 7099.2.

38 (d) Except as described in subdivision (e), the registrar shall
39 make available to members of the public the date, nature, and
40 disposition of all legal actions.

(e) Disclosure of legal actions shall be limited as follows:

(1) (A) Citations shall be disclosed from the date of issuance and for five years after the date of compliance if no additional disciplinary actions have been filed against the licensee during the five-year period. If additional disciplinary actions were filed against the licensee during the five-year period, all disciplinary actions shall be disclosed for as long as the most recent disciplinary action is subject to disclosure under this section. At the end of the specified time period, those citations shall no longer be disclosed.

(B) Any disclosure pursuant to this paragraph shall also appear on the license record of any other license identified as a qualifier as defined in Section 7025 who is listed in the members of the personnel of record as defined in Section 7025 of the license that was issued the citation.

(C) The disclosure described in subparagraph (B) shall be for the period of disclosure of the citation.

(2) Accusations that result in suspension, stayed suspension, or stayed revocation of the contractor's license shall be disclosed from the date the accusation is filed and for seven years after the accusation has been settled, including the terms and conditions of probation if no additional disciplinary actions have been filed against the licensee during the seven-year period. If additional disciplinary actions were filed against the licensee during the seven-year period, all disciplinary actions shall be posted for as long as the most recent disciplinary action is subject to disclosure under this section. At the end of the specified time period, those accusations shall no longer be disclosed.

(3) All revocations that are not stayed shall be disclosed indefinitely from the effective date of the revocation.

SEC. 4. The Legislature finds and declares that Section 3 of this act, which amends Section 7124.6 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to allow the Contractors' State License Board to fully accomplish its regulatory and disciplinary goals for minor

1 violations, it is necessary to limit access to the letters of
2 admonishment.

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CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number:	SB 800 (Business, Professions and Economic Development Committee)
Status/Location:	Amended 8/21/17 – Assembly Floor
Sponsor:	Various Department of Consumer Affairs' boards
Subject:	Professions and Vocations
Code Section:	Business & Professions Code sections 70751 and 7145.5 (as they pertain to the Contractors State License Board)

Summary:

Existing law (Contractors' State License Law):

1. Provides for the licensure and regulation of contractors by the Contractors State License Board (CSLB) and requires the board to appoint a registrar of contractors to perform specified duties.
2. Authorizes CSLB to reissue or reassign a license number to a different entity under certain circumstances, including to a corporation or limited liability company (LLC) that acquires a licensee pursuant to an asset sale, provided that the corporation or limited liability company has a qualifier, as specified.
3. Authorizes the registrar to refuse to issue, reinstate, reactivate, or renew a license for the failure of a licensee to resolve all outstanding liabilities, including taxes, as specified.

This bill:

1. Eliminates the provision of existing law that allows for the reassignment of a contractor license number to a corporation or LLC when the new entity acquires a "licensee" in an asset sale.
2. Amends a provision of existing contractors' state license law to use the correct terms for "federal employer identification number" and to add "individual taxpayer identification number," as authorized by a general provision of the Business & Professions Code.

Background:

In 2010, legislation was enacted authorizing CSLB to issue a license to a limited liability company. This legislation amended several sections of the contractors' state license law to make conforming changes. However, CSLB cannot implement the provision that allows the reassignment of a contractor license number to a corporation or LLC when the new entity acquires a "licensee" in an asset sale. Pursuant to other sections of existing law, a business cannot acquire a "licensee" through an asset sale. This proposal would remove that provision of law.

The second change uses the correct terms in contractors' state license law for "federal employer identification number" and to add "individual taxpayer identification number," as authorized by a general provision of the Business and Professions Code.

Fiscal Impact for CSLB:

None.

Board Position and Comments:

SUPPORT. These changes will improve the clarity of the contractors' state license law and eliminate a provision that creates confusion for applicants and licensees.

Date: September 7 2017

AMENDED IN ASSEMBLY SEPTEMBER 8, 2017

AMENDED IN ASSEMBLY AUGUST 21, 2017

AMENDED IN ASSEMBLY JUNE 5, 2017

AMENDED IN SENATE APRIL 20, 2017

AMENDED IN SENATE APRIL 18, 2017

SENATE BILL

No. 800

**Introduced by Committee on Business, Professions and Economic
Development (Senators Hill (Chair), Dodd, Galgiani, Glazer,
Hernandez, Newman, Pan, and Wilk)**

February 17, 2017

An act to amend Sections 4013, 4316, 4980.09, 4980.44, 4980.72, 4984.4, 4984.7, 4984.9, 4989.46, 4992.8, 4996.3, 4996.6, 4996.17, 4999.12.5, 4999.32, 4999.33, 4999.42, 4999.53, 4999.60, 4999.61, 4999.62, 4999.63, 4999.118, 4999.120, 5094, 5680.1, 5680.2, 7075.1, 7145.5, 7558, 7583.5, 7583.20, 7583.21, 7583.32, 7586, 7590.1, 7593.11, 7598.17, 7599.54, 7713, 8567, 12003, 12014, 12022, 12103.5, 12204, 12206, 12303, 12304, 12310, 12310.5, 12313, 12500, 12500.8, 12501.1, 12511, 12602, 12603, 12701, 12707, 12716, 12717, 12722, 12734, 12737, 13432, 13433, 13434, and 22352 of, and to repeal Section 4001.5 of, the Business and Professions Code, to amend Sections 42639.1 and 85239.1 of the Education Code, to amend Section 1010 of the Evidence Code, to amend Section 424 of the Government Code, and to amend Section 11165.7 of the Penal Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 800, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) The Pharmacy Law provides for the licensure and regulation of pharmacies, pharmacists, and other associated persons and entities by the California State Board of Pharmacy. This law requires the Joint Committee on Boards, Commissions, and Consumer Protection to review the state's shortage of pharmacists and make recommendations on a course of action to alleviate the shortage, including, but not limited to, a review of the current California pharmacist licensure examination.

This bill would repeal that requirement of a review.

The Pharmacy Law, beginning July 1, 2017, requires each pharmacist, intern pharmacist, pharmacy technician, and designated representative 3rd-party logistics provider licensed in this state to join the board's email notification list within 60 days of obtaining a license, and requires that each of these persons, and each designated representative, update their information within 30 days of a change in email address.

This bill would specify that the requirement to join the board's email notification list within 60 days of obtaining a license or at the time of license renewal also applies to each designated representative.

The Pharmacy Law authorizes the board to issue a cease and desist order for operating any facility under the Pharmacy Law that requires licensure or for practicing any activity requiring licensure under that law.

This bill would specify that the board may act in this capacity through its executive officer. The bill also would clarify that the authorization to issue a cease and desist order applies with respect to the operation of a facility or the practice of any activity under the Pharmacy Law that requires licensure without obtaining that licensure.

(2) The Licensed Marriage and Family Therapist Act provides for the regulation of the practice of marriage and family therapy by the Board of Behavioral Sciences. A violation of the act is a crime. Existing law requires the licensure of marriage and family therapists and the registration of marriage and family therapist interns. Existing law, commencing January 1, 2018, renames "interns" to "associates" for purposes of that act. Existing law prohibits the abbreviation "MFTI" from being used in an advertisement unless the title "marriage and family therapist registered intern" appears in the advertisement.

This bill would specify that any reference in the act to the term “intern” means an “associate” and any reference to the abbreviation “MFTI” means an “AMFT.” The bill would prohibit the abbreviation “AMFT” from being used in an advertisement unless the title “registered associate marriage and family therapist” appears in the advertisement. Because this bill would change the definition of a crime, it would impose a state-mandated local program.

Existing law requires the board to assess specified fees relating to the licensure of marriage and family therapists, including an application fee for intern registration of \$75, a renewal fee for an intern registration of \$75, and a fee for the application for examination eligibility of \$100.

This bill would revise the application and renewal fee provision to specify that it applies to fees for an associate registration. The bill would revise the \$100 fee provision to instead specify that it covers the application for licensure.

(3) The Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act require licensees or registrants to give written notice to the Board of Behavioral Sciences of a name change within 30 days after each change, giving both the old and new names, and including specified legal documents authorizing the name change.

This bill would revise these provisions to require the written notice to be submitted to the board within 30 days of issuance of a new government-issued photographic identification, including specific information. The bill would require the licensee or registrant to certify the information by signing a statement under penalty of perjury. By expanding the crime of perjury, the bill would impose a state-mandated local program.

(4) The Clinical Social Worker Practice Act requires the Board of Behavioral Sciences to assess certain fees, including an application fee for examination eligibility of \$100.

This bill would revise that fee to instead apply to an application for licensure.

The Clinical Social Worker Practice Act specifies that a license that is not renewed within 3 years after its expiration may not be renewed, restored, reinstated, or reissued thereafter. The act, however, permits former licensees to apply for and obtain a new license upon satisfying specified requirements, including submitting an application for examination eligibility and the associated fees.

This bill would revise that provision permitting a former applicant to apply for and obtain a new license to instead require that he or she submit an application and fee for licensure and submit the licensure application fees and the fee for initial license.

The Clinical Social Worker Practice Act permits experience gained outside of California to be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of the act. The act permits an applicant who obtained his or her license or registration under another jurisdiction to apply for licensure without taking the clinical examination, as specified, if the applicant obtained a passing score on the licensing examination set forth in regulation as accepted by the Board of Behavioral Sciences.

This bill would additionally require the applicant's license or registration in that other jurisdiction to be active, in good standing at the time of his or her application, and not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

(5) The Licensed Professional Clinical Counselor Act requires applicants for examination eligibility to possess certain credentials for examination eligibility, including possessing a master's or doctoral degree that is counseling or psychotherapy in content, and that meets certain requirements, and is obtained from an accredited or approved institution.

This bill would revise these provisions to specify that they apply for an applicant to qualify for licensure.

The Licensed Professional Clinical Counselor Act requires the Board of Behavioral Sciences to assess certain fees, including an application fee for examination eligibility of \$250 and a fee for licensure of \$180, which are deposited into the Behavioral Sciences Fund and expended upon appropriation for the purposes of the programs under the board's jurisdiction.

This bill would delete the fee for examination eligibility and would increase the fee for licensure to \$250.

The Licensed Professional Clinical Counselor Act requires an applicant, to qualify for registration as an intern, to have all of specified qualifications, including having earned a master's or doctoral degree in specified fields, completed coursework, not committed specified acts or crimes, and to meet other criteria.

The bill also would replace the term "intern" with the term "associate" and would make related and conforming changes. Additionally the bill would fix erroneous cross-references in related provisions.

(6) Existing law provides for the licensure and regulation of landscape architects by the California Architects Board, which is within the Department of Consumer Affairs. Existing law authorizes a license that has expired to be renewed within 3 years after its expiration, as specified. Existing law prohibits a license that is expired for more than 3 years from being renewed, restored, reissued, or reinstated but authorizes the holder of the expired license to apply for and obtain a new license if the applicant for the new license meets certain criteria, pays certain fees, and passes an examination or otherwise establishes to the satisfaction of the board that the applicant is qualified to practice landscape architecture.

This bill would instead authorize a license to be renewed within 5 years of its expiration. The bill would prohibit a license that is expired for more than 5 years from being renewed, restored, reissued, or reinstated but would authorize the holder of the expired license to apply for a new license, as specified.

(7) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board and requires the board to appoint a registrar of contractors to perform specified duties. That law authorizes a license number to be reissued or reassigned to a different entity under certain circumstances, including to a corporation or limited liability company that acquires a licensee pursuant to an asset sale provided that the corporation or limited liability company has a qualifier, as specified. That law authorizes the registrar to refuse to issue, reinstate, reactivate, or renew a license for the failure of a licensee to resolve all outstanding liabilities, including taxes, as specified.

This bill would remove that authorization for a license number to be reissued or reassigned to a corporation or limited liability company that acquires a licensee pursuant to an asset sale. The bill with respect to the above provisions relating to the registrar's authority to refuse to issue, reinstate, reactivate, or renew a license in the case of outstanding final liabilities assessed by the Franchise Tax Board would include the individual taxpayer identification number among the licensee information provided to the Franchise Tax Board that would make that authority operative.

(8) Existing law, the Private Investigator Act, provides for the licensure and regulation of private investigators and the Private Security Services Act provides for the licensure and regulation of persons engaged in the provision of private security services by the Department

of Consumer Affairs and its Bureau of Security and Investigative Services. Those acts provide that a license, registration, certificate, or pocket card issued under the acts expire 2 years following the date of issuance and requires specified persons under the act that are also issued or renew a firearms qualification to be placed on a cyclical renewal cycle, as specified

This bill would provide that a license, registration, certificate, or pocket card issued under those acts expires at midnight of the last day of the month 2 years following issuance unless renewed and would delete the requirement that certain persons be on a cyclical renewal cycle.

The Private Security Services Act prohibits a uniformed employee of a licensee from carrying or using a firearm unless the employee has in his or her possession a valid firearm qualification. Existing law makes a violation of the Private Security Services Act punishable as a misdemeanor.

This bill would also prohibit a licensee under the Private Security Services Act from carrying or using a firearm unless the licensee has in his or her possession a valid firearm qualification. By placing new requirements on a licensee, this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

The Private Security Services Act prohibits the bureau from renewing a firearms qualification card unless certain conditions are satisfied, including that the applicant has requalified on the range and has successfully passed a written examination. Existing law exempts a duly appointed peace officer, as defined, from the range requalification and written examination requirement. Existing law requires the registration of a security guard to be automatically suspended if the guard is convicted of any crime that is substantially related to the function, duties, and responsibilities of a security guard and requires a notice of the automatic suspension to be mailed to the licensee and requires a copy of the notice to be mailed to the employee of the licensee.

This bill would additionally exempt a federal qualified law enforcement officer, as defined, from those requirements. The bill would also delete the requirement that a copy of a notice of automatic suspension be mailed to the employee of the licensee who is suspended.

(9) Existing law, the Alarm Company Act, provides for the licensure and regulation of alarm company operators and the certification and registration of employees of alarm companies by the Bureau for Security and Investigative Services, which is within the Department of Consumer

Affairs. That act provides that a license or registration issued under the act expires 2 years following the date of issuance and requires specified persons issued a license or registration under the act that are also issued or renew a firearms qualification to be placed on a cyclical renewal cycle, as specified. That act requires, except as provided, every agreement to be in writing and requires agreements entered into on or after January 1, 2017, that include an automatic renewal provision to provide a specified disclosure.

This bill would provide that a license expires at midnight of the last day of the month 2 years following issuance unless renewed and would delete the requirement that certain persons be on a cyclical renewal cycle. The bill would instead limit that disclosure requirement to residential agreements with an automatic renewal provision. The bill would require an applicant for renewal of a registration under the act to submit an application on a form prescribed by the director that is dated and signed by the applicant and would require the applicant to certify under penalty of perjury that the information on the application is true and correct. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The Alarm Company Act defines certain terms for its purposes, including defining “alarm system” as an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

This bill would instead define “alarm system” as an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police may respond.

(10) The Cemetery and Funeral Act provides for the licensure and regulation of cemeteries, crematories, funeral establishments, and their personnel by the Cemetery and Funeral Bureau, which is within the Department of Consumer Affairs. That act requires a crematory to at all times employ a licensed crematory manager to manage, supervise, and direct its operations.

This bill would authorize licensed crematories within close geographical proximity of each other to request authorization from the bureau to allow a licensed crematory manager to manage, supervise, and direct the business or profession of more than one facility.

(11) Existing law provides for the licensure and regulation of structural pest control operators by the Structural Pest Control Board, which is within the Department of Consumers Affairs. Existing law

requires specified licensees to notify the registrar, as specified, that the licensee has changed his or her employment.

This bill would authorize a registered company to notify the registrar, as specified, when certain licensees are no longer associated with the registered company.

(12) Existing law provides for the regulation of commercial weighing and measuring devices by the Department of Food and Agriculture, and provides for the enforcement of those provisions by the State Sealer and by county sealers of weights and measures in each county. Existing law, for these purposes, provides that the term “director” or “secretary” means the Secretary of Food and Agriculture. Existing law requires the standards of the state to be directly certified by the National Bureau of Standards, a federal agency that became the National Institute of Standards and Technology in 1988.

This bill would provide that the term “secretary” means the Secretary of Food and Agriculture and would make conforming changes. This bill also would change references to the National Bureau of Standards to the National Institute of Standards and Technology.

Existing law provides that certain persons are not weighmasters, including, among others, milk samplers and weighers, as specified.

This bill would additionally provide that facilities that handle medical waste and that report net weights, and not estimates, to the generator of the medical waste and the State Department of Public Health in accordance with the Medical Waste Management Act are not weighmasters.

(13) Existing law requires every person who makes service of process in this state for compensation more than 10 times a year to register as a process server with the county clerk, except as provided. Existing law requires, at the time of filing the initial certificate of registration, the registrant to pay certain fees to the county clerk, including a fee to cover the actual cost of processing the completed fingerprint cards.

This bill would instead require a registrant to pay a fee to cover the actual costs of processing the completed request for live scan.

(14) This bill would incorporate additional changes to Sections 7583.20, 7598.17, 12304, 12310, and 12500 of the Business and Professions Code proposed by SB 547 to be operative only if this bill and SB 547 are enacted and this bill is enacted last.

~~(14)~~

(15) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 4001.5 of the Business and Professions
2 Code is repealed.

3 SEC. 2. Section 4013 of the Business and Professions Code is
4 amended to read:

5 4013. (a) Any facility licensed by the board shall join the
6 board's email notification list within 60 days of obtaining a license
7 or at the time of license renewal.

8 (b) Any facility licensed by the board shall update its email
9 address with the board's email notification list within 30 days of
10 a change in the facility's email address.

11 (c) An owner of two or more facilities licensed by the board
12 may comply with subdivisions (a) and (b) by subscribing a single
13 email address to the board's email notification list, where the owner
14 maintains an electronic notice system within all of its licensed
15 facilities that, upon receipt of an email notification from the board,
16 immediately transmits electronic notice of the same notification
17 to all of its licensed facilities. If an owner chooses to comply with
18 this section by using such an electronic notice system, the owner
19 shall register the electronic notice system with the board by July
20 1, 2011, or within 60 days of initial licensure, whichever is later,
21 informing the board of the single email address to be utilized by
22 the owner, describing the electronic notice system, and listing all
23 facilities to which immediate notice will be provided. The owner
24 shall update its email address with the board's email notification
25 list within 30 days of any change in the owner's email address.

26 (d) (1) Each pharmacist, intern pharmacist, pharmacy
27 technician, designated representative, and designated
28 representative-3PL licensed in this state shall join the board's email
29 notification list within 60 days of obtaining a license or at the time
30 of license renewal.

(2) Each pharmacist, intern pharmacist, pharmacy technician, designated representative, and designated representative-3PL licensed in this state shall update his or her email address with the board's email notification list within 30 days of a change in the licensee's email address.

(3) The email address provided by a licensee shall not be posted on the board's online license verification system.

(4) The board shall, with each renewal application, remind licensees of their obligation to report and keep current their email address with the board's email notification list.

(5) This subdivision shall become operative on July 1, 2017.

SEC. 3. Section 4316 of the Business and Professions Code is amended to read:

4316. (a) The board, through its executive officer, is authorized to issue a cease and desist order for operating any facility under this chapter that requires licensure or for practicing any activity under this chapter that requires licensure without obtaining that licensure.

(b) Whenever the board issues a cease and desist order pursuant to subdivision (a), the board shall immediately issue the facility a notice setting forth the acts or omissions with which it is charged, specifying the pertinent code section or sections and any regulations.

(c) The order shall provide that the facility, within 15 days of receipt of the notice, may request a hearing before the president of the board to contest the cease and desist order. Consideration of the facility's contest of the cease and desist order shall comply with the requirements of Section 11425.10 of the Government Code. The hearing shall be held no later than five days from the date the request of the owner is received by the board. The president shall render a written decision within five days of the hearing. In the absence of the president of the board, the vice president of the board may conduct the hearing permitted by this subdivision. Review of the decision of the president of the board may be sought by the owner or person in possession or control of the facility pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 4. Section 4980.09 of the Business and Professions Code is amended to read:

1 4980.09. (a) (1) The title “marriage and family therapist
2 intern” or “marriage and family therapist registered intern” is
3 hereby renamed “associate marriage and family therapist” or
4 “registered associate marriage and family therapist,” respectively.
5 Any reference in statute or regulation to a “marriage and family
6 therapist intern” or “marriage and family therapist registered intern”
7 shall be deemed a reference to an “associate marriage and family
8 therapist” or “registered associate marriage and family therapist.”

9 (2) Any reference in this chapter to the term “intern” means
10 “associate.” Any reference in statute or regulation to the
11 abbreviation “MFTI” means an “AMFT.”

12 (b) This section shall not be construed to expand or constrict
13 the scope of practice of a person licensed or registered pursuant
14 to this chapter.

15 SEC. 5. Section 4980.44 of the Business and Professions Code
16 is amended to read:

17 4980.44. An unlicensed associate marriage and family therapist
18 employed under this chapter shall comply with the following
19 requirements:

20 (a) Possess, at a minimum, a master’s degree as specified in
21 Section 4980.36 or 4980.37, as applicable.

22 (b) Register with the board prior to performing any duties,
23 except as otherwise provided in subdivision (h) of Section 4980.43.

24 (c) Prior to performing any professional services, inform each
25 client or patient that he or she is an unlicensed registered associate
26 marriage and family therapist, provide his or her registration
27 number and the name of his or her employer, and indicate whether
28 he or she is under the supervision of a licensed marriage and family
29 therapist, licensed clinical social worker, licensed professional
30 clinical counselor, licensed psychologist, or a licensed physician
31 and surgeon certified in psychiatry by the American Board of
32 Psychiatry and Neurology.

33 (d) (1) Any advertisement by or on behalf of a registered
34 associate marriage and family therapist shall include, at a
35 minimum, all of the following information:

36 (A) That he or she is a registered associate marriage and family
37 therapist.

38 (B) The associate’s registration number.

39 (C) The name of his or her employer.

40 (D) That he or she is supervised by a licensed person.

(2) The abbreviation “AMFT” shall not be used in an advertisement unless the title “registered associate marriage and family therapist” appears in the advertisement.

SEC. 6. Section 4980.72 of the Business and Professions Code is amended to read:

4980.72. (a) This section applies to a person who is licensed outside of California and applies for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or country, if all of the following conditions are satisfied:

(1) The applicant’s education is substantially equivalent, as defined in Section 4980.79. The applicant’s degree title need not be identical to that required by Section 4980.36 or 4980.37.

(2) The applicant complies with Section 4980.76, if applicable.

(3) The applicant’s supervised experience is substantially equivalent to that required for a license under this chapter. The board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a marriage and family therapist shall be accepted at a rate of 100 hours per month, up to a maximum of 1,200 hours, if the applicant’s degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4980.79 without exemptions or remediation.

(4) The applicant passes the California law and ethics examination.

(5) The applicant passes a clinical examination designated by the board. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

1 (B) The applicant's license or registration in that jurisdiction is
2 active, in good standing at the time of his or her application, and
3 is not revoked, suspended, surrendered, denied, or otherwise
4 restricted or encumbered.

5 SEC. 7. Section 4984.4 of the Business and Professions Code
6 is amended to read:

7 4984.4. A license that is not renewed within three years after
8 its expiration shall not be renewed, restored, reinstated, or reissued;
9 however, the former licensee may apply for and obtain a new
10 license if the following criteria are satisfied:

11 (a) No fact, circumstance, or condition exists that, if the license
12 were issued, would constitute grounds for its revocation or
13 suspension.

14 (b) He or she submits an application for licensure and the fee
15 for that application.

16 (c) He or she takes and passes the current licensing
17 examinations.

18 (d) He or she submits the fee for initial license issuance.

19 (e) He or she complies with the fingerprint requirements
20 established by board regulation.

21 SEC. 8. Section 4984.7 of the Business and Professions Code
22 is amended to read:

23 4984.7. (a) The board shall assess the following fees relating
24 to the licensure of marriage and family therapists:

25 (1) The application fee for an associate registration shall be
26 seventy-five dollars (\$75).

27 (2) The renewal fee for an associate registration shall be
28 seventy-five dollars (\$75).

29 (3) The fee for the application for licensure shall be one hundred
30 dollars (\$100).

31 (4) The fee for the clinical examination shall be one hundred
32 dollars (\$100). The fee for the California law and ethics
33 examination shall be one hundred dollars (\$100).

34 (A) An applicant who fails to appear for an examination, after
35 having been scheduled to take the examination, shall forfeit the
36 examination fee.

37 (B) The amount of the examination fees shall be based on the
38 actual cost to the board of developing, purchasing, and grading
39 each examination and the actual cost to the board of administering
40 each examination. The examination fees shall be adjusted

1 periodically by regulation to reflect the actual costs incurred by
2 the board.

3 (5) The fee for rescoring an examination shall be twenty dollars
4 (\$20).

5 (6) The fee for issuance of an initial license shall be a maximum
6 of one hundred eighty dollars (\$180).

7 (7) The fee for license renewal shall be a maximum of one
8 hundred eighty dollars (\$180).

9 (8) The fee for inactive license renewal shall be a maximum of
10 ninety dollars (\$90).

11 (9) The renewal delinquency fee shall be a maximum of ninety
12 dollars (\$90). A person who permits his or her license to expire is
13 subject to the delinquency fee.

14 (10) The fee for issuance of a replacement registration, license,
15 or certificate shall be twenty dollars (\$20).

16 (11) The fee for issuance of a certificate or letter of good
17 standing shall be twenty-five dollars (\$25).

18 (12) The fee for issuance of a retired license shall be forty dollars
19 (\$40).

20 (b) With regard to license, examination, and other fees, the
21 board shall establish fee amounts at or below the maximum
22 amounts specified in this chapter.

23 SEC. 9. Section 4984.9 of the Business and Professions Code
24 is amended to read:

25 4984.9. A licensee or registrant shall give written notice to the
26 board of a name change, giving both the old and new names. The
27 written notice shall be submitted to the board within 30 days of
28 the issuance of a new government-issued photographic
29 identification. The licensee or registrant shall certify the
30 information by signing a statement under penalty of perjury. A
31 copy of both of the following documents evidencing the change
32 shall be submitted with the notice:

33 (a) A current government-issued photographic identification.

34 (b) The legal document authorizing the name change, such as
35 a court order or a marriage certificate.

36 SEC. 10. Section 4989.46 of the Business and Professions
37 Code is amended to read:

38 4989.46. A licensee shall give written notice to the board of a
39 name change, providing both the old and new names. The written
40 notice shall be submitted to the board within 30 days of the

1 issuance of a new government-issued photographic identification.
2 The licensee shall certify the information is correct by signing a
3 statement under penalty of perjury. A copy of both of the following
4 documents evidencing the change shall be submitted with the
5 notice:

6 (a) A current government-issued photographic identification.

7 (b) The legal document authorizing the name change, such as
8 a court order or a marriage certificate.

9 SEC. 11. Section 4992.8 of the Business and Professions Code
10 is amended to read:

11 4992.8. A licensee or registrant shall give written notice to the
12 board of a name change, giving both the old and new names. The
13 written notice shall be submitted to the board within 30 days of
14 the issuance of a new government-issued photographic
15 identification. The licensee or registrant shall certify the
16 information is correct by signing a statement under penalty of
17 perjury. A copy of both of the following documents evidencing
18 the change shall be submitted with the notice:

19 (a) A current government-issued photographic identification.

20 (b) The legal document authorizing the name change, such as
21 a court order or a marriage certificate.

22 SEC. 12. Section 4996.3 of the Business and Professions Code
23 is amended to read:

24 4996.3. (a) The board shall assess the following fees relating
25 to the licensure of clinical social workers:

26 (1) The application fee for registration as an associate clinical
27 social worker shall be seventy-five dollars (\$75).

28 (2) The fee for renewal of an associate clinical social worker
29 registration shall be seventy-five dollars (\$75).

30 (3) The fee for application for licensure shall be one hundred
31 dollars (\$100).

32 (4) The fee for the board-administered clinical examination, if
33 the board chooses to adopt this examination in regulations, shall
34 be one hundred dollars (\$100). The fee for the California law and
35 ethics examination shall be one hundred dollars (\$100).

36 (A) An applicant who fails to appear for an examination, after
37 having been scheduled to take the examination, shall forfeit the
38 examination fees.

39 (B) The amount of the examination fees shall be based on the
40 actual cost to the board of developing, purchasing, and grading

1 each examination and the actual cost to the board of administering
2 each examination. The written examination fees shall be adjusted
3 periodically by regulation to reflect the actual costs incurred by
4 the board.

5 (5) The fee for rescoring an examination shall be twenty dollars
6 (\$20).

7 (6) The fee for issuance of an initial license shall be a maximum
8 of one hundred fifty-five dollars (\$155).

9 (7) The fee for license renewal shall be a maximum of one
10 hundred fifty-five dollars (\$155).

11 (8) The fee for inactive license renewal shall be a maximum of
12 seventy-seven dollars and fifty cents (\$77.50).

13 (9) The renewal delinquency fee shall be a maximum of
14 seventy-five dollars (\$75). A person who permits his or her license
15 to expire is subject to the delinquency fee.

16 (10) The fee for issuance of a replacement registration, license,
17 or certificate shall be twenty dollars (\$20).

18 (11) The fee for issuance of a certificate or letter of good
19 standing shall be twenty-five dollars (\$25).

20 (12) The fee for issuance of a retired license shall be forty dollars
21 (\$40).

22 (b) With regard to license, examination, and other fees, the
23 board shall establish fee amounts at or below the maximum
24 amounts specified in this chapter.

25 SEC. 13. Section 4996.6 of the Business and Professions Code
26 is amended to read:

27 4996.6. (a) Licenses issued under this chapter shall expire no
28 more than 24 months after the issue date. The expiration date of
29 the original license shall be set by the board.

30 (b) To renew an unexpired license, the licensee shall, on or
31 before the expiration date of the license, complete the following
32 actions:

33 (1) Apply for a renewal on a form prescribed by the board.

34 (2) Pay a two-year renewal fee prescribed by the board.

35 (3) Certify compliance with the continuing education
36 requirements set forth in Section 4996.22.

37 (4) Notify the board whether he or she has been convicted, as
38 defined in Section 490, of a misdemeanor or felony, or whether
39 any disciplinary action has been taken by any regulatory or

1 licensing board in this or any other state, subsequent to the
2 licensee's last renewal.

3 (c) To renew an expired license within three years of its
4 expiration, the licensee shall, as a condition precedent to renewal,
5 complete all of the actions described in subdivision (b) and pay a
6 delinquency fee.

7 (d) A license that is not renewed within three years after its
8 expiration may not be renewed, restored, reinstated, or reissued
9 thereafter; however, the former licensee may apply for and obtain
10 a new license if he or she satisfies all of the following requirements:

11 (1) No fact, circumstance, or condition exists that, if the license
12 were issued, would justify its revocation or suspension.

13 (2) He or she submits an application for licensure.

14 (3) He or she takes and passes the current licensing
15 examinations.

16 (4) He or she submits the licensure application fees and the fee
17 for initial license issuance.

18 (5) He or she complies with the fingerprint requirements
19 established by board regulation.

20 SEC. 14. Section 4996.17 of the Business and Professions
21 Code is amended to read:

22 4996.17. (a) (1) Experience gained outside of California shall
23 be accepted toward the licensure requirements if it is substantially
24 the equivalent of the requirements of this chapter.

25 (2) Commencing January 1, 2014, an applicant with education
26 gained outside of California shall complete an 18-hour course in
27 California law and professional ethics. The content of the course
28 shall include, but not be limited to, the following: advertising,
29 scope of practice, scope of competence, treatment of minors,
30 confidentiality, dangerous patients, psychotherapist-patient
31 privilege, recordkeeping, patient access to records, state and federal
32 laws related to confidentiality of patient health information, dual
33 relationships, child abuse, elder and dependent adult abuse, online
34 therapy, insurance reimbursement, civil liability, disciplinary
35 actions and unprofessional conduct, ethics complaints and ethical
36 standards, termination of therapy, standards of care, relevant family
37 law, therapist disclosures to patients, differences in legal and ethical
38 standards in different types of work settings, and licensing law
39 and process.

(b) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes, or has passed, the licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

1 (4) The applicant's license is in good standing and is not
2 suspended, revoked, restricted, sanctioned, or voluntarily
3 surrendered in any state.

4 (5) The applicant is not currently under investigation in any
5 other state, and has not been charged with an offense for any act
6 substantially related to the practice of social work by any public
7 agency, entered into any consent agreement or been subject to an
8 administrative decision that contains conditions placed by an
9 agency upon an applicant's professional conduct or practice,
10 including any voluntary surrender of license, or been the subject
11 of an adverse judgment resulting from the practice of social work
12 that the board determines constitutes evidence of a pattern of
13 incompetence or negligence.

14 (6) The applicant shall provide a certification from each state
15 where he or she holds a license pertaining to licensure, disciplinary
16 action, and complaints pending.

17 (7) The applicant is not subject to denial of licensure under
18 Section 480, 4992.3, 4992.35, or 4992.36.

19 (c) The board may issue a license to any person who, at the time
20 of application, holds a valid clinical social work license issued by
21 a board of clinical social work examiners or a corresponding
22 authority of any state, if the person has held that license for at least
23 four years immediately preceding the date of application, the person
24 passes, or has passed, the licensing examinations as specified in
25 Section 4996.1, and the person pays the required fees. Issuance of
26 the license is conditioned upon all of the following:

27 (1) Completion of the following coursework or training in or
28 out of state:

29 (A) A minimum of seven contact hours of training or coursework
30 in child abuse assessment and reporting as specified in Section 28,
31 and any regulations promulgated thereunder.

32 (B) A minimum of 10 contact hours of training or coursework
33 in human sexuality as specified in Section 25, and any regulations
34 promulgated thereunder.

35 (C) A minimum of 15 contact hours of training or coursework
36 in alcoholism and other chemical substance dependency, as
37 specified by regulation.

38 (D) A minimum of 15 contact hours of coursework or training
39 in spousal or partner abuse assessment, detection, and intervention
40 strategies.

(2) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(3) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(4) The applicant's license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(d) An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination specified in Section 4996.1 if both of the following conditions are met:

1 (1) The applicant obtained a passing score on the clinical
2 licensing examination set forth in regulation as accepted by the
3 board.

4 (2) The applicant's license or registration in that jurisdiction is
5 active, in good standing at the time of his or her application, and
6 is not revoked, suspended, surrendered, denied, or otherwise
7 restricted or encumbered.

8 SEC. 15. Section 4999.12.5 of the Business and Professions
9 Code is amended to read:

10 4999.12.5. (a) (1) The title "professional clinical counselor
11 intern" or "professional clinical counselor registered intern" is
12 hereby renamed "associate professional clinical counselor" or
13 "registered associate professional clinical counselor," respectively.
14 Any reference in any statute or regulation to a "professional clinical
15 counselor intern" or "professional clinical counselor registered
16 intern" shall be deemed a reference to an "associate professional
17 clinical counselor" or "registered associate professional clinical
18 counselor."

19 (2) Any reference in this chapter to the term "intern" means
20 "associate."

21 (b) Nothing in this section shall be construed to expand or
22 constrict the scope of practice of a person licensed or registered
23 pursuant to this chapter.

24 SEC. 16. Section 4999.32 of the Business and Professions
25 Code is amended to read:

26 4999.32. (a) This section shall apply to applicants for licensure
27 or registration who begin graduate study before August 1, 2012,
28 and complete that study on or before December 31, 2018. Those
29 applicants may alternatively qualify under paragraph (2) of
30 subdivision (a) of Section 4999.33.

31 (b) To qualify for licensure or registration, applicants shall
32 possess a master's or doctoral degree that is counseling or
33 psychotherapy in content and that meets the requirements of this
34 section, obtained from an accredited or approved institution, as
35 defined in Section 4999.12. For purposes of this subdivision, a
36 degree is "counseling or psychotherapy in content" if it contains
37 the supervised practicum or field study experience described in
38 paragraph (3) of subdivision (c) and, except as provided in
39 subdivision (d), the coursework in the core content areas listed in

1 subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision
2 (c).

3 (c) The degree described in subdivision (b) shall contain not
4 less than 48 graduate semester or 72 graduate quarter units of
5 instruction, which shall, except as provided in subdivision (d),
6 include all of the following:

7 (1) The equivalent of at least three semester units or four and
8 one-half quarter units of graduate study in each of the following
9 core content areas:

10 (A) Counseling and psychotherapeutic theories and techniques,
11 including the counseling process in a multicultural society, an
12 orientation to wellness and prevention, counseling theories to assist
13 in selection of appropriate counseling interventions, models of
14 counseling consistent with current professional research and
15 practice, development of a personal model of counseling, and
16 multidisciplinary responses to crises, emergencies, and disasters.

17 (B) Human growth and development across the lifespan,
18 including normal and abnormal behavior and an understanding of
19 developmental crises, disability, psychopathology, and situational
20 and environmental factors that affect both normal and abnormal
21 behavior.

22 (C) Career development theories and techniques, including
23 career development decisionmaking models and interrelationships
24 among and between work, family, and other life roles and factors,
25 including the role of multicultural issues in career development.

26 (D) Group counseling theories and techniques, including
27 principles of group dynamics, group process components,
28 developmental stage theories, therapeutic factors of group work,
29 group leadership styles and approaches, pertinent research and
30 literature, group counseling methods, and evaluation of
31 effectiveness.

32 (E) Assessment, appraisal, and testing of individuals, including
33 basic concepts of standardized and nonstandardized testing and
34 other assessment techniques, norm-referenced and
35 criterion-referenced assessment, statistical concepts, social and
36 cultural factors related to assessment and evaluation of individuals
37 and groups, and ethical strategies for selecting, administering, and
38 interpreting assessment instruments and techniques in counseling.

39 (F) Multicultural counseling theories and techniques, including
40 counselors' roles in developing cultural self-awareness, identity

development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.

(G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.

(H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.

(I) Professional orientation, ethics, and law in counseling, including professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.

(2) In addition to the course requirements described in paragraph (1), a minimum of 12 semester units or 18 quarter units of advanced coursework to develop knowledge of specific treatment issues, special populations, application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.

(3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:

- 1 (A) Applied psychotherapeutic techniques.
- 2 (B) Assessment.
- 3 (C) Diagnosis.
- 4 (D) Prognosis.
- 5 (E) Treatment.
- 6 (F) Issues of development, adjustment, and maladjustment.
- 7 (G) Health and wellness promotion.
- 8 (H) Other recognized counseling interventions.
- 9 (I) A minimum of 150 hours of face-to-face supervised clinical
- 10 experience counseling individuals, families, or groups.
- 11 (d) (1) (A) An applicant whose degree is deficient in no more
- 12 than two of the required areas of study listed in subparagraphs (A)
- 13 to (I), inclusive, of paragraph (1) of subdivision (c) may satisfy
- 14 those deficiencies by successfully completing post-master's or
- 15 postdoctoral degree coursework at an accredited or approved
- 16 institution, as defined in Section 4999.12.
- 17 (B) Notwithstanding subparagraph (A), no applicant shall be
- 18 deficient in the required areas of study specified in subparagraphs
- 19 (E) or (G) of paragraph (1) of subdivision (c).
- 20 (2) Coursework taken to meet deficiencies in the required areas
- 21 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
- 22 (1) of subdivision (c) shall be the equivalent of three semester units
- 23 or four and one-half quarter units of study.
- 24 (3) The board shall make the final determination as to whether
- 25 a degree meets all requirements, including, but not limited to,
- 26 course requirements, regardless of accreditation.
- 27 (e) In addition to the degree described in this section, or as part
- 28 of that degree, an applicant shall complete the following
- 29 coursework or training prior to registration as an associate:
- 30 (1) A minimum of 15 contact hours of instruction in alcoholism
- 31 and other chemical substance abuse dependency, as specified by
- 32 regulation.
- 33 (2) A minimum of 10 contact hours of training or coursework
- 34 in human sexuality as specified in Section 25, and any regulations
- 35 promulgated thereunder.
- 36 (3) A two semester unit or three quarter unit survey course in
- 37 psychopharmacology.
- 38 (4) A minimum of 15 contact hours of instruction in spousal or
- 39 partner abuse assessment, detection, and intervention strategies,

1 including knowledge of community resources, cultural factors,
2 and same gender abuse dynamics.

3 (5) A minimum of seven contact hours of training or coursework
4 in child abuse assessment and reporting as specified in Section 28
5 and any regulations adopted thereunder.

6 (6) A minimum of 18 contact hours of instruction in California
7 law and professional ethics for professional clinical counselors
8 that includes, but is not limited to, instruction in advertising, scope
9 of practice, scope of competence, treatment of minors,
10 confidentiality, dangerous clients, psychotherapist-client privilege,
11 recordkeeping, client access to records, dual relationships, child
12 abuse, elder and dependent adult abuse, online therapy, insurance
13 reimbursement, civil liability, disciplinary actions and
14 unprofessional conduct, ethics complaints and ethical standards,
15 termination of therapy, standards of care, relevant family law,
16 therapist disclosures to clients, and state and federal laws related
17 to confidentiality of patient health information. When coursework
18 in a master's or doctoral degree program is acquired to satisfy this
19 requirement, it shall be considered as part of the 48 semester unit
20 or 72 quarter unit requirement in subdivision (c).

21 (7) A minimum of 10 contact hours of instruction in aging and
22 long-term care, which may include, but is not limited to, the
23 biological, social, and psychological aspects of aging. On and after
24 January 1, 2012, this coursework shall include instruction on the
25 assessment and reporting of, as well as treatment related to, elder
26 and dependent adult abuse and neglect.

27 (8) A minimum of 15 contact hours of instruction in crisis or
28 trauma counseling, including multidisciplinary responses to crises,
29 emergencies, or disasters, and brief, intermediate, and long-term
30 approaches.

31 (f) This section shall remain in effect only until January 1, 2019,
32 and as of that date is repealed, unless a later enacted statute that
33 is enacted before January 1, 2019, deletes or extends that date.

34 SEC. 17. Section 4999.33 of the Business and Professions
35 Code is amended to read:

36 4999.33. (a) This section shall apply to the following:

37 (1) Applicants for licensure or registration who begin graduate
38 study before August 1, 2012, and do not complete that study on
39 or before December 31, 2018.

1 (2) Applicants for licensure or registration who begin graduate
2 study before August 1, 2012, and who graduate from a degree
3 program that meets the requirements of this section.

4 (3) Applicants for licensure or registration who begin graduate
5 study on or after August 1, 2012.

6 (b) To qualify for licensure or registration, applicants shall
7 possess a master's or doctoral degree that is counseling or
8 psychotherapy in content and that meets the requirements of this
9 section, obtained from an accredited or approved institution, as
10 defined in Section 4999.12. For purposes of this subdivision, a
11 degree is "counseling or psychotherapy in content" if it contains
12 the supervised practicum or field study experience described in
13 paragraph (3) of subdivision (c) and, except as provided in
14 subdivision (f), the coursework in the core content areas listed in
15 subparagraphs (A) to (M), inclusive, of paragraph (1) of
16 subdivision (c).

17 (c) The degree described in subdivision (b) shall contain not
18 less than 60 graduate semester units or 90 graduate quarter units
19 of instruction, which shall, except as provided in subdivision (f),
20 include all of the following:

21 (1) The equivalent of at least three semester units or four and
22 one-half quarter units of graduate study in all of the following core
23 content areas:

24 (A) Counseling and psychotherapeutic theories and techniques,
25 including the counseling process in a multicultural society, an
26 orientation to wellness and prevention, counseling theories to assist
27 in selection of appropriate counseling interventions, models of
28 counseling consistent with current professional research and
29 practice, development of a personal model of counseling, and
30 multidisciplinary responses to crises, emergencies, and disasters.

31 (B) Human growth and development across the lifespan,
32 including normal and abnormal behavior and an understanding of
33 developmental crises, disability, psychopathology, and situational
34 and environmental factors that affect both normal and abnormal
35 behavior.

36 (C) Career development theories and techniques, including
37 career development decisionmaking models and interrelationships
38 among and between work, family, and other life roles and factors,
39 including the role of multicultural issues in career development.

1 (D) Group counseling theories and techniques, including
2 principles of group dynamics, group process components, group
3 developmental stage theories, therapeutic factors of group work,
4 group leadership styles and approaches, pertinent research and
5 literature, group counseling methods, and evaluation of
6 effectiveness.

7 (E) Assessment, appraisal, and testing of individuals, including
8 basic concepts of standardized and nonstandardized testing and
9 other assessment techniques, norm-referenced and
10 criterion-referenced assessment, statistical concepts, social and
11 cultural factors related to assessment and evaluation of individuals
12 and groups, and ethical strategies for selecting, administering, and
13 interpreting assessment instruments and techniques in counseling.

14 (F) Multicultural counseling theories and techniques, including
15 counselors' roles in developing cultural self-awareness, identity
16 development, promoting cultural social justice, individual and
17 community strategies for working with and advocating for diverse
18 populations, and counselors' roles in eliminating biases and
19 prejudices, and processes of intentional and unintentional
20 oppression and discrimination.

21 (G) Principles of the diagnostic process, including differential
22 diagnosis, and the use of current diagnostic tools, such as the
23 current edition of the Diagnostic and Statistical Manual, the impact
24 of co-occurring substance use disorders or medical psychological
25 disorders, established diagnostic criteria for mental or emotional
26 disorders, and the treatment modalities and placement criteria
27 within the continuum of care.

28 (H) Research and evaluation, including studies that provide an
29 understanding of research methods, statistical analysis, the use of
30 research to inform evidence-based practice, the importance of
31 research in advancing the profession of counseling, and statistical
32 methods used in conducting research, needs assessment, and
33 program evaluation.

34 (I) Professional orientation, ethics, and law in counseling,
35 including California law and professional ethics for professional
36 clinical counselors, professional ethical standards and legal
37 considerations, licensing law and process, regulatory laws that
38 delineate the profession's scope of practice, counselor-client
39 privilege, confidentiality, the client dangerous to self or others,
40 treatment of minors with or without parental consent, relationship

1 between practitioner's sense of self and human values, functions
2 and relationships with other human service providers, strategies
3 for collaboration, and advocacy processes needed to address
4 institutional and social barriers that impede access, equity, and
5 success for clients.

6 (J) Psychopharmacology, including the biological bases of
7 behavior, basic classifications, indications, and contraindications
8 of commonly prescribed psychopharmacological medications so
9 that appropriate referrals can be made for medication evaluations
10 and so that the side effects of those medications can be identified.

11 (K) Addictions counseling, including substance abuse,
12 co-occurring disorders, and addiction, major approaches to
13 identification, evaluation, treatment, and prevention of substance
14 abuse and addiction, legal and medical aspects of substance abuse,
15 populations at risk, the role of support persons, support systems,
16 and community resources.

17 (L) Crisis or trauma counseling, including crisis theory;
18 multidisciplinary responses to crises, emergencies, or disasters;
19 cognitive, affective, behavioral, and neurological effects associated
20 with trauma; brief, intermediate, and long-term approaches; and
21 assessment strategies for clients in crisis and principles of
22 intervention for individuals with mental or emotional disorders
23 during times of crisis, emergency, or disaster.

24 (M) Advanced counseling and psychotherapeutic theories and
25 techniques, including the application of counseling constructs,
26 assessment and treatment planning, clinical interventions,
27 therapeutic relationships, psychopathology, or other clinical topics.

28 (2) In addition to the course requirements described in paragraph
29 (1), 15 semester units or 22.5 quarter units of advanced coursework
30 to develop knowledge of specific treatment issues or special
31 populations.

32 (3) Not less than six semester units or nine quarter units of
33 supervised practicum or field study experience that involves direct
34 client contact in a clinical setting that provides a range of
35 professional clinical counseling experience, including the
36 following:

37 (A) Applied psychotherapeutic techniques.

38 (B) Assessment.

39 (C) Diagnosis.

40 (D) Prognosis.

- 1 (E) Treatment.
- 2 (F) Issues of development, adjustment, and maladjustment.
- 3 (G) Health and wellness promotion.
- 4 (H) Professional writing including documentation of services,
- 5 treatment plans, and progress notes.
- 6 (I) How to find and use resources.
- 7 (J) Other recognized counseling interventions.
- 8 (K) A minimum of 280 hours of face-to-face supervised clinical
- 9 experience counseling individuals, families, or groups.
- 10 (d) The 60 graduate semester units or 90 graduate quarter units
- 11 of instruction required pursuant to subdivision (c) shall, in addition
- 12 to meeting the requirements of subdivision (c), include instruction
- 13 in all of the following:
- 14 (1) The understanding of human behavior within the social
- 15 context of socioeconomic status and other contextual issues
- 16 affecting social position.
- 17 (2) The understanding of human behavior within the social
- 18 context of a representative variety of the cultures found within
- 19 California.
- 20 (3) Cultural competency and sensitivity, including a familiarity
- 21 with the racial, cultural, linguistic, and ethnic backgrounds of
- 22 persons living in California.
- 23 (4) An understanding of the effects of socioeconomic status on
- 24 treatment and available resources.
- 25 (5) Multicultural development and cross-cultural interaction,
- 26 including experiences of race, ethnicity, class, spirituality, sexual
- 27 orientation, gender, and disability and their incorporation into the
- 28 psychotherapeutic process.
- 29 (6) Case management, systems of care for the severely mentally
- 30 ill, public and private services for the severely mentally ill,
- 31 community resources for victims of abuse, disaster and trauma
- 32 response, advocacy for the severely mentally ill, and collaborative
- 33 treatment. The instruction required in this paragraph may be
- 34 provided either in credit level coursework or through extension
- 35 programs offered by the degree-granting institution.
- 36 (7) Human sexuality, including the study of the physiological,
- 37 psychological, and social cultural variables associated with sexual
- 38 behavior, gender identity, and the assessment and treatment of
- 39 psychosexual dysfunction.

1 (8) Spousal or partner abuse assessment, detection, intervention
2 strategies, and same gender abuse dynamics.

3 (9) A minimum of seven contact hours of training or coursework
4 in child abuse assessment and reporting, as specified in Section
5 28, and any regulations promulgated thereunder.

6 (10) Aging and long-term care, including biological, social,
7 cognitive, and psychological aspects of aging. This coursework
8 shall include instruction on the assessment and reporting of, as
9 well as treatment related to, elder and dependent adult abuse and
10 neglect.

11 (e) A degree program that qualifies for licensure under this
12 section shall do all of the following:

13 (1) Integrate the principles of mental health recovery-oriented
14 care and methods of service delivery in recovery-oriented practice
15 environments.

16 (2) Integrate an understanding of various cultures and the social
17 and psychological implications of socioeconomic position.

18 (3) Provide the opportunity for students to meet with various
19 consumers and family members of consumers of mental health
20 services to enhance understanding of their experience of mental
21 illness, treatment, and recovery.

22 (f) (1) (A) An applicant whose degree is deficient in no more
23 than three of the required areas of study listed in subparagraphs
24 (A) to (M), inclusive, of paragraph (1) of subdivision (c) may
25 satisfy those deficiencies by successfully completing post-master's
26 or postdoctoral degree coursework at an accredited or approved
27 institution, as defined in Section 4999.12.

28 (B) Notwithstanding subparagraph (A), no applicant shall be
29 deficient in the required areas of study specified in subparagraphs
30 (E) or (G) of paragraph (1) of subdivision (c).

31 (2) Coursework taken to meet deficiencies in the required areas
32 of study listed in subparagraphs (A) to (M), inclusive, of paragraph
33 (1) of subdivision (c) shall be the equivalent of three semester units
34 or four and one-half quarter units of study.

35 (3) The board shall make the final determination as to whether
36 a degree meets all requirements, including, but not limited to,
37 course requirements, regardless of accreditation.

38 SEC. 18. Section 4999.42 of the Business and Professions
39 Code is amended to read:

1 4999.42. To qualify for registration as an associate, an applicant
2 shall have all of the following qualifications:

3 (a) The applicant shall have earned a master's or doctoral degree
4 as specified in Section 4999.32 or 4999.33, as applicable. An
5 applicant whose education qualifies him or her under Section
6 4999.32 shall also have completed the coursework or training
7 specified in subdivision (e) of Section 4999.32.

8 (b) The applicant shall not have committed acts or crimes
9 constituting grounds for denial of licensure under Section 480.

10 (c) The board shall not issue a registration to any person who
11 has been convicted of a crime in this or another state or in a
12 territory of the United States that involves sexual abuse of children
13 or who is required to register pursuant to Section 290 of the Penal
14 Code or the equivalent in another state or territory.

15 SEC. 19. Section 4999.53 of the Business and Professions
16 Code is amended to read:

17 4999.53. (a) Effective January 1, 2016, a registrant or an
18 applicant for licensure as a professional clinical counselor shall
19 pass the following examinations as prescribed by the board:

20 (1) A California law and ethics examination.

21 (2) A clinical examination administered by the board, or the
22 National Clinical Mental Health Counselor Examination if the
23 board finds that this examination meets the prevailing standards
24 for validation and use of the licensing and certification tests in
25 California.

26 (b) Upon registration with the board, an associate professional
27 clinical counselor shall, within the first year of registration, take
28 an examination on California law and ethics.

29 (c) A registrant or an applicant for licensure may take the clinical
30 examination or the National Clinical Mental Health Counselor
31 Examination, as established by the board through regulation, only
32 upon meeting all of the following requirements:

33 (1) Completion of all required supervised work experience.

34 (2) Completion of all education requirements.

35 (3) Passage of the California law and ethics examination.

36 (d) This section shall become operative on January 1, 2016.

37 SEC. 20. Section 4999.60 of the Business and Professions
38 Code is amended to read:

1 4999.60. (a) This section applies to persons who are licensed
2 outside of California and apply for licensure on or after January
3 1, 2016.

4 (b) The board may issue a license to a person who, at the time
5 of submitting an application for a license pursuant to this chapter,
6 holds a valid license in good standing as a professional clinical
7 counselor, or other counseling license that allows the applicant to
8 independently provide clinical mental health services, in another
9 jurisdiction of the United States, if all of the following conditions
10 are satisfied:

11 (1) The applicant's education is substantially equivalent, as
12 defined in Section 4999.63.

13 (2) The applicant complies with subdivision (c) of Section
14 4999.40, if applicable.

15 (3) The applicant's supervised experience is substantially
16 equivalent to that required for a license under this chapter. The
17 board shall consider hours of experience obtained outside of
18 California during the six-year period immediately preceding the
19 date the applicant initially obtained the license described above.
20 If the applicant has less than 3,000 hours of qualifying supervised
21 experience, time actively licensed as a professional clinical
22 counselor shall be accepted at a rate of 100 hours per month up to
23 a maximum of 1,200 hours if the applicant's degree meets the
24 practicum requirement described in subparagraph (C) of paragraph
25 (1) of subdivision (b) of Section 4999.63 without exemptions or
26 remediation.

27 (4) The applicant passes the examinations required to obtain a
28 license under this chapter. An applicant who obtained his or her
29 license or registration under another jurisdiction may apply for
30 licensure with the board without taking the clinical examination
31 if both of the following conditions are met:

32 (A) The applicant obtained a passing score on the clinical
33 licensing examination set forth in regulation as accepted by the
34 board.

35 (B) The applicant's license or registration in that jurisdiction is
36 active, in good standing at the time of his or her application, and
37 is not revoked, suspended, surrendered, denied, or otherwise
38 restricted or encumbered.

39 SEC. 21. Section 4999.61 of the Business and Professions
40 Code is amended to read:

1 4999.61. (a) This section applies to persons who apply for
2 licensure or registration on or after January 1, 2016, and who do
3 not hold a license as described in Section 4999.60.

4 (b) The board shall accept education gained from an out-of-state
5 school for purposes of satisfying licensure or registration
6 requirements if the education is substantially equivalent, as defined
7 in Section 4999.62, and the applicant complies with subdivision
8 (c) of Section 4999.40, if applicable.

9 (c) The board shall accept experience gained outside of
10 California for purposes of satisfying licensure or registration
11 requirements if the experience is substantially equivalent to that
12 required by this chapter.

13 SEC. 22. Section 4999.62 of the Business and Professions
14 Code is amended to read:

15 4999.62. (a) This section applies to persons who apply for
16 licensure or registration on or after January 1, 2016, and who do
17 not hold a license as described in Section 4999.60.

18 (b) For purposes of Section 4999.61, education is substantially
19 equivalent if all of the following requirements are met:

20 (1) The degree is obtained from an accredited or approved
21 institution, as defined in Section 4999.12, and consists of, at a
22 minimum, the following:

23 (A) (i) For an applicant who obtained his or her degree within
24 the timeline prescribed by subdivision (a) of Section 4999.33 the
25 degree shall contain no less than 60 graduate semester units or 90
26 graduate quarter units of instruction.

27 (ii) Up to 12 semester units or 18 quarter units of instruction
28 may be remediated, if missing from the degree. The remediation
29 may occur while the applicant is registered as an associate.

30 (B) For an applicant who obtained his or her degree within the
31 timeline prescribed by subdivision (a) of Section 4999.32 the
32 degree shall contain no less than 48 graduate semester units or 72
33 graduate quarter units of instruction.

34 (C) Six semester units or nine quarter units of practicum,
35 including, but not limited to, a minimum of 280 hours of
36 face-to-face supervised clinical experience counseling individuals,
37 families, or groups.

38 (D) The required areas of study listed in subparagraphs (A) to
39 (M), inclusive, of paragraph (1) of subdivision (c) of Section
40 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet any deficiencies shall be the equivalent of three semester units or four and one-half quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient in the required areas of study specified in subparagraph (E) or (G) of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients. An applicant shall complete this coursework prior to registration as an associate.

(iii) An applicant who has not completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. An applicant shall complete this coursework prior to registration as an associate.

(2) The applicant completes any units required by subdivision (c) of Section 4999.33 not already completed in his or her education as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

1 (B) Coursework shall be from an accredited or approved school,
2 college, or university as defined in Section 4999.12.

3 (3) (A) The applicant completes the following coursework not
4 already completed in his or her education:

5 (i) A minimum of 10 contact hours of training in human
6 sexuality, as specified in Section 25 and any regulations
7 promulgated thereunder, including the study of the physiological,
8 psychological, and social cultural variables associated with sexual
9 behavior, gender identity, and the assessment and treatment of
10 psychosexual dysfunction.

11 (ii) A minimum of 15 contact hours of instruction in spousal or
12 partner abuse assessment, detection, intervention strategies, and
13 same-gender abuse dynamics.

14 (iii) A minimum of seven contact hours of training or
15 coursework in child abuse assessment and reporting as specified
16 in Section 28 and any regulations promulgated thereunder.

17 (iv) A minimum of 10 contact hours of instruction in aging and
18 long-term care, including biological, social, cognitive, and
19 psychological aspects of aging. This coursework shall include
20 instruction on the assessment and reporting of, as well as treatment
21 related to, elder and dependent adult abuse and neglect.

22 (B) This coursework may be from an accredited or approved
23 school, college, or university as defined in Section 4999.12, or
24 from a continuing education provider that is acceptable to the board
25 as defined in Section 4999.76. Undergraduate coursework shall
26 not satisfy this requirement.

27 (4) The applicant completes the following coursework not
28 already completed in his or her education from an accredited or
29 approved school, college, or university as defined in Section
30 4999.12, or from a continuing education provider that is acceptable
31 to the board as defined in Section 4999.76. Undergraduate
32 coursework shall not satisfy this requirement.

33 (A) At least three semester units, or 45 hours, of instruction
34 regarding the principles of mental health recovery-oriented care
35 and methods of service delivery in recovery-oriented practice
36 environments, including structured meetings with various
37 consumers and family members of consumers of mental health
38 services to enhance understanding of their experiences of mental
39 illness, treatment, and recovery.

1 (B) At least one semester unit, or 15 hours, of instruction that
2 includes an understanding of various California cultures and the
3 social and psychological implications of socioeconomic position.

4 (5) An applicant may complete any units and course content
5 requirements required under paragraph (2), (3), or (4) not already
6 completed in his or her education while registered with the board
7 as an associate.

8 SEC. 23. Section 4999.63 of the Business and Professions
9 Code is amended to read:

10 4999.63. (a) This section applies to persons who apply for
11 licensure or registration on or after January 1, 2016, and who hold
12 a license as described in Section 4999.60.

13 (b) For purposes of Section 4999.60, education is substantially
14 equivalent if all of the following requirements are met:

15 (1) The degree is obtained from an accredited or approved
16 institution, as defined in Section 4999.12, and consists of the
17 following:

18 (A) (i) For an applicant who obtained his or her degree within
19 the timeline prescribed by subdivision (a) of Section 4999.33 the
20 degree shall contain no less than 60 graduate semester or 90
21 graduate quarter units of instruction.

22 (ii) Up to 12 semester units or 18 quarter units of instruction
23 may be remediated, if missing from the degree. The remediation
24 may occur while the applicant is registered as an associate.

25 (B) For an applicant who obtained his or her degree within the
26 timeline prescribed by subdivision (a) of Section 4999.32 the
27 degree shall contain no less than 48 graduate semester or 72
28 graduate quarter units of instruction.

29 (C) Six semester units or nine quarter units of practicum,
30 including, but not limited to, a minimum of 280 hours of
31 face-to-face supervised clinical experience counseling individuals,
32 families, or groups.

33 (i) An applicant who has been licensed for at least two years in
34 clinical practice, as verified by the board, is exempt from this
35 requirement.

36 (ii) An out-of-state applicant who has been licensed for less
37 than two years in clinical practice, as verified by the board, who
38 does not meet the practicum requirement, shall remediate the
39 requirement by demonstrating completion of a total of 280 hours
40 of face-to-face supervised clinical experience, as specified in

1 subparagraph (K) of paragraph (3) of subdivision (c) of Section
2 4999.33. Any postdegree hours gained to meet this requirement
3 are in addition to the 3,000 hours of experience required by this
4 chapter, and shall be gained while the applicant is registered with
5 the board as an associate.

6 (D) The required areas of study specified in subparagraphs (A)
7 to (M), inclusive, of paragraph (1) of subdivision (c) of Section
8 4999.33.

9 (i) (I) An applicant whose degree is deficient in no more than
10 six of the required areas of study specified in subparagraphs (A)
11 to (M), inclusive, of paragraph (1) of subdivision (c) of Section
12 4999.33 may satisfy those deficiencies by successfully completing
13 graduate level coursework at an accredited or approved institution,
14 as defined in Section 4999.12. Coursework taken to meet any
15 deficiencies shall be the equivalent of three semester units or four
16 and one-half quarter units of study.

17 (II) Notwithstanding subclause (I), no applicant shall be deficient
18 in the required areas of study specified in subparagraphs (E) or
19 (G) of paragraph (1) of subdivision (c) of Section 4999.33.

20 (ii) An applicant who completed a course in professional
21 orientation, ethics, and law in counseling as required by
22 subparagraph (I) of paragraph (1) of subdivision (c) of Section
23 4999.33 that did not contain instruction in California law and ethics
24 shall complete an 18-hour course in California law and professional
25 ethics that includes, but is not limited to, instruction in advertising,
26 scope of practice, scope of competence, treatment of minors,
27 confidentiality, dangerous clients, psychotherapist-client privilege,
28 recordkeeping, client access to records, state and federal laws
29 relating to confidentiality of patient health information, dual
30 relationships, child abuse, elder and dependent adult abuse, online
31 therapy, insurance reimbursement, civil liability, disciplinary
32 actions and unprofessional conduct, ethics complaints and ethical
33 standards, termination of therapy, standards of care, relevant family
34 law, and therapist disclosures to clients. An applicant shall
35 complete this coursework prior to registration as an associate.

36 (iii) An applicant who has not completed a course in professional
37 orientation, ethics, and law in counseling as required by
38 subparagraph (I) of paragraph (1) of subdivision (c) of Section
39 4999.33 shall complete this required coursework, including content

1 in California law and ethics. An applicant shall complete this
2 coursework prior to registration as an associate.

3 (2) The applicant completes any units required under subdivision
4 (c) of Section 4999.33 not already completed in his or her education
5 as follows:

6 (A) At least 15 semester units or 22.5 quarter units of advanced
7 coursework to develop knowledge of specific treatment issues or
8 special populations. This coursework is in addition to the course
9 requirements described in subparagraph (D) of paragraph (1).

10 (B) Coursework shall be from an accredited or approved school,
11 college, or university as defined in Section 4999.12.

12 (3) The applicant completes the following coursework not
13 already completed in his or her education:

14 (A) A minimum of 10 contact hours of training in human
15 sexuality, as specified in Section 25 and any regulations
16 promulgated thereunder, including the study of the physiological,
17 psychological, and social cultural variables associated with sexual
18 behavior, gender identity, and the assessment and treatment of
19 psychosexual dysfunction.

20 (B) A minimum of 15 contact hours of instruction in spousal
21 or partner abuse assessment, detection, intervention strategies, and
22 same-gender abuse dynamics.

23 (C) A minimum of seven contact hours of training or coursework
24 in child abuse assessment and reporting as specified in Section 28
25 and any regulations promulgated under that section.

26 (D) A minimum of 10 contact hours of instruction in aging and
27 long-term care, including biological, social, cognitive, and
28 psychological aspects of aging. This coursework shall include
29 instruction on the assessment and reporting of, as well as treatment
30 related to, elder and dependent adult abuse and neglect.

31 (E) This coursework may be from an accredited or approved
32 school, college, or university as defined in Section 4999.12, or
33 from a continuing education provider that is acceptable to the board
34 as defined in Section 4999.76. Undergraduate coursework shall
35 not satisfy this requirement.

36 (4) The applicant completes the following coursework not
37 already completed in his or her education from an accredited or
38 approved school, college, or university as defined in Section
39 4999.12, or from a continuing education provider that is acceptable

1 to the board as defined in Section 4999.76. Undergraduate
2 coursework shall not satisfy this requirement.

3 (A) At least three semester units or 45 hours of instruction
4 regarding the principles of mental health recovery-oriented care
5 and methods of service delivery in recovery-oriented practice
6 environments, including structured meetings with various
7 consumers and family members of consumers of mental health
8 services to enhance understanding of their experience of mental
9 illness, treatment, and recovery.

10 (B) At least one semester unit or 15 hours of instruction that
11 includes an understanding of various California cultures and the
12 social and psychological implications of socioeconomic position.

13 (5) An applicant may complete any units and course content
14 requirements required by subparagraph (D) of paragraph (1) or
15 paragraphs (2), (3), and (4) not already completed in his or her
16 education while registered with the board as an associate, unless
17 otherwise specified.

18 SEC. 24. Section 4999.118 of the Business and Professions
19 Code is amended to read:

20 4999.118. A licensee or registrant shall give written notice to
21 the board of a name change, giving both the old and new names.
22 The written notice shall be submitted to the board within 30 days
23 of the issuance of a new government-issued photographic
24 identification. The licensee or registrant shall certify the
25 information is correct by signing a statement under penalty of
26 perjury. A copy of both of the following documents evidencing
27 the change shall be submitted with the notice:

28 (a) A current government-issued photographic identification.

29 (b) The legal document authorizing the name change, such as
30 a court order or a marriage certificate.

31 SEC. 25. Section 4999.120 of the Business and Professions
32 Code is amended to read:

33 4999.120. The board shall assess fees for the application for
34 and the issuance and renewal of licenses and for the registration
35 of associates to cover administrative and operating expenses of
36 the board related to this chapter. Fees assessed pursuant to this
37 section shall not exceed the following:

38 (a) The fee for the application for licensure shall be up to two
39 hundred fifty dollars (\$250).

1 (b) The fee for the application for associate registration shall
2 be up to one hundred fifty dollars (\$150).

3 (c) The fee for the board-administered clinical examination, if
4 the board chooses to adopt this examination in regulations, shall
5 be up to two hundred fifty dollars (\$250).

6 (d) The fee for the law and ethics examination shall be up to
7 one hundred fifty dollars (\$150).

8 (e) The fee for the issuance of a license shall be up to two
9 hundred fifty dollars (\$250).

10 (f) The fee for annual renewal of an associate registration shall
11 be up to one hundred fifty dollars (\$150).

12 (g) The fee for two-year renewal of licenses shall be up to two
13 hundred fifty dollars (\$250).

14 (h) The fee for issuance of a retired license shall be forty dollars
15 (\$40).

16 (i) The fee for rescoring an examination shall be twenty dollars
17 (\$20).

18 (j) The fee for issuance of a replacement license or registration
19 shall be twenty dollars (\$20).

20 (k) The fee for issuance of a certificate or letter of good standing
21 shall be twenty-five dollars (\$25).

22 SEC. 26. Section 5094 of the Business and Professions Code
23 is amended to read:

24 5094. (a) In order for education to be qualifying, it shall meet
25 the standards described in subdivision (b) or (c) of this section.

26 (b) At a minimum, education shall be from a degree-granting
27 university, college, or other institution of learning accredited by
28 a regional or national accrediting agency included in a list of these
29 agencies published by the United States Secretary of Education
30 under the requirements of the Higher Education Act of 1965 as
31 amended (20 U.S.C. Sec. 1001 et seq.).

32 (c) Education from a college, university, or other institution of
33 learning located outside the United States may be qualifying
34 provided it is deemed by the board to be equivalent to education
35 obtained under subdivision (b). The board may require an applicant
36 to submit documentation of his or her education to a credential
37 evaluation service approved by the board for evaluation and to
38 cause the results of this evaluation to be reported to the board in
39 order to assess educational equivalency.

(d) The board shall adopt regulations specifying the criteria and procedures for approval of credential evaluation services. These regulations shall, at a minimum, require that the credential evaluation service (1) furnish evaluations directly to the board, (2) furnish evaluations written in English, (3) be a member of the American Association of Collegiate Registrars and Admissions Officers, NAFSA: Association of International Educators, or the National Association of Credential Evaluation Services, (4) be used by accredited colleges and universities, (5) be reevaluated by the board every five years, (6) maintain a complete set of reference materials as specified by the board, (7) base evaluations only upon authentic, original transcripts and degrees and have a written procedure for identifying fraudulent transcripts, (8) include in the evaluation report, for each degree held by the applicant, the equivalent degree offered in the United States, the date the degree was granted, the institution granting the degree, an English translation of the course titles, and the semester unit equivalence for each of the courses, (9) have an appeal procedure for applicants, and (10) furnish the board with information concerning the credential evaluation service that includes biographical information on evaluators and translators, three letters of references from public or private agencies, statistical information on the number of applications processed annually for the past five years, and any additional information the board may require in order to ascertain that the credential evaluation service meets the standards set forth in this subdivision and in any regulations adopted by the board.

SEC. 27. Section 5680.1 of the Business and Professions Code is amended to read:

5680.1. Except as otherwise provided in this chapter, a license that has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed more than 30 days after its expiration, the licenseholder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 5680 that next occurs

1 after the effective date of the renewal, when it shall expire if it is
2 not again renewed.

3 SEC. 28. Section 5680.2 of the Business and Professions Code
4 is amended to read:

5 5680.2. A license that is not renewed within five years after
6 its expiration may not be renewed, restored, reissued, or reinstated
7 thereafter, but the holder of the expired license may apply for and
8 obtain a new license if:

9 (a) No fact, circumstance, or condition exists which, if the
10 license were issued, would justify its revocation or suspension.

11 (b) The holder of the expired license pays the fees required of
12 new applicants.

13 (c) The holder of the expired license takes and passes the current
14 California Supplemental Examination.

15 SEC. 29. Section 7075.1 of the Business and Professions Code
16 is amended to read:

17 7075.1. (a) No license, regardless of type or classification,
18 shall be transferable to any other person or entity under any
19 circumstances.

20 (b) A license number may be reissued after cancellation,
21 revocation, suspension, or expiration beyond the renewal period
22 specified in Section 7141, only under the following circumstances:

23 (1) To an individual upon application.

24 (2) To a partnership upon application if there is no change in
25 the partners or partnership structure.

26 (3) To a corporation upon application if there is no change in
27 the status of the corporation as registered with the Secretary of
28 State.

29 (4) To a limited liability company upon application if there is
30 no change in the status of the company as registered with the
31 Secretary of State.

32 (c) A license number may be reissued or reassigned to a different
33 entity only under the following conditions:

34 (1) To a corporation when the parent corporation has merged
35 or created a subsidiary, the subsidiary has merged into the parent
36 corporation, or the corporation has changed its filing status with
37 the Secretary of State from a domestic corporation to a foreign
38 corporation or from a foreign corporation to a domestic corporation,
39 and the new entity is being formed to continue the business of the
40 formerly licensed corporation.

1 (2) To a limited liability company when the parent limited
2 liability company has merged or created a subsidiary, the subsidiary
3 has merged into the parent limited liability company, or the limited
4 liability company has changed its filing status with the Secretary
5 of State from a domestic limited liability company to a foreign
6 limited liability company or from a foreign limited liability
7 company to a domestic limited liability company, and the new
8 entity is being formed to continue the business of the formerly
9 licensed limited liability company.

10 (3) To an individual when the individual is an immediate family
11 member of a licensed individual who is deceased or absent and
12 the license is required to continue an existing family contracting
13 business.

14 (4) To a corporation or limited liability company when created
15 by immediate members of an individual licensee's family to
16 continue an existing deceased or absent individual licensee's
17 contracting business.

18 (5) To a corporation or limited liability company when the
19 corporation or limited liability company is formed by an individual
20 licensee and the individual licensee maintains ownership directly
21 or indirectly of shares or membership interests evidencing more
22 than 50 percent of the voting power.

23 (6) To a limited liability company that is formed by a
24 corporation to continue the business of the corporation subsequent
25 to the cancellation of the corporate entity's license, provided the
26 personnel listed for each entity are the same.

27 (d) For purposes of this section, an immediate family member
28 of a deceased or absent licensed individual is either a spouse,
29 father, mother, brother, sister, son, daughter, stepson, stepdaughter,
30 grandson, granddaughter, son-in-law, or daughter-in-law.

31 SEC. 30. Section 7145.5 of the Business and Professions Code
32 is amended to read:

33 7145.5. (a) The registrar may refuse to issue, reinstate,
34 reactivate, or renew a license or may suspend a license for the
35 failure of a licensee to resolve all outstanding final liabilities, which
36 include taxes, additions to tax, penalties, interest, and any fees that
37 may be assessed by the board, the Department of Industrial
38 Relations, the Employment Development Department, the
39 Franchise Tax Board, or the State Board of Equalization.

1 (1) Until the debts covered by this section are satisfied, the
2 qualifying person and any other personnel of record named on a
3 license that has been suspended under this section shall be
4 prohibited from serving in any capacity that is subject to licensure
5 under this chapter, but shall be permitted to act in the capacity of
6 a nonsupervising bona fide employee.

7 (2) The license of any other renewable licensed entity with any
8 of the same personnel of record that have been assessed an
9 outstanding liability covered by this section shall be suspended
10 until the debt has been satisfied or until the same personnel of
11 record disassociate themselves from the renewable licensed entity.

12 (b) The refusal to issue a license or the suspension of a license
13 as provided by this section shall be applicable only if the registrar
14 has mailed a notice preliminary to the refusal or suspension that
15 indicates that the license will be refused or suspended by a date
16 certain. This preliminary notice shall be mailed to the licensee at
17 least 60 days before the date certain.

18 (c) In the case of outstanding final liabilities assessed by the
19 Franchise Tax Board, this section shall be operative within 60 days
20 after the Contractors' State License Board has provided the
21 Franchise Tax Board with the information required under Section
22 30, relating to licensing information that includes the federal
23 employer identification number, individual taxpayer identification
24 number, or social security number.

25 (d) All versions of the application for contractors' licenses shall
26 include, as part of the application, an authorization by the applicant,
27 in the form and manner mutually agreeable to the Franchise Tax
28 Board and the board, for the Franchise Tax Board to disclose the
29 tax information that is required for the registrar to administer this
30 section. The Franchise Tax Board may from time to time audit
31 these authorizations.

32 (e) In the case of outstanding final liabilities assessed by the
33 State Board of Equalization, this section shall not apply to any
34 outstanding final liability if the licensee has entered into an
35 installment payment agreement for that liability with the State
36 Board of Equalization and is in compliance with the terms of that
37 agreement.

38 SEC. 31. Section 7558 of the Business and Professions Code
39 is amended to read:

1 7558. A private investigator license, branch office certificate,
2 and pocket card issued under this chapter expires at midnight on
3 the last day of the month two years following the date of issuance
4 unless renewed.

5 SEC. 32. Section 7583.5 of the Business and Professions Code
6 is amended to read:

7 7583.5. (a) Every licensee and any person employed and
8 compensated by a licensee, other lawful business or public agency
9 as a security guard or patrolperson, and who in the course of that
10 employment or business carries a firearm, shall complete a course
11 of training in the exercise of the powers to arrest and a course of
12 training in the carrying and use of firearms. This subdivision shall
13 not apply to armored vehicle guards hired prior to January 1, 1977.
14 Armored vehicle guards hired on or after January 1, 1977, shall
15 complete a course of training in the carrying and use of firearms,
16 but shall not be required to complete a course of training in the
17 exercise of the powers to arrest. The course of training in the
18 carrying and use of firearms shall not be required of any employee
19 who is not required or permitted by a licensee to carry or use
20 firearms. The course in the carrying and use of firearms and the
21 course of training in the exercise of the powers to arrest shall meet
22 the standards which shall be prescribed by the Department of
23 Consumer Affairs. The department shall encourage restraint and
24 caution in the use of firearms.

25 (b) No licensee or uniformed employee of a licensee shall carry
26 or use any firearm unless the licensee or employee has in his or
27 her possession a valid firearm qualification card.

28 SEC. 33. Section 7583.20 of the Business and Professions
29 Code is amended to read:

30 7583.20. (a) A registration issued under this chapter expires
31 at midnight on the last day of the month two years following the
32 date of issuance unless renewed. At least 60 days prior to the
33 expiration, a registrant seeking to renew a security guard
34 registration shall forward to the bureau a completed registration
35 renewal application and the renewal fee. The renewal application
36 shall be on a form prescribed by the director, dated and signed by
37 the applicant, certifying under penalty of perjury that the
38 information in the application is true and correct.

39 (b) The licensee shall provide to any employee information
40 regarding procedures for renewal or registration.

1 (c) In the event a registrant fails to request a renewal of his or
2 her registration as provided for in this chapter, the registration
3 shall expire as indicated on the registration. If the registration is
4 renewed within 60 days after its expiration, the registrant, as a
5 condition precedent to renewal, shall pay the renewal fee and the
6 delinquency fee.

7 (d) The delinquency fee is 50 percent of the renewal fee in effect
8 on the date of expiration, but not less than twenty-five dollars
9 (\$25).

10 (e) If the renewed registration card has not been delivered to
11 the registrant prior to the expiration of the prior registration, the
12 registrant may present evidence of renewal to substantiate
13 continued registration for a period not to exceed 90 days after the
14 date of expiration.

15 (f) A registration may not be renewed or reinstated unless a
16 registrant meets both of the following requirements:

17 (1) All fines assessed pursuant to Section 7587.7 and not
18 resolved in accordance with the provisions of that section have
19 been paid.

20 (2) On and after July 1, 2005, the registrant certifies, on a form
21 prescribed by the bureau, that he or she has completed the 32 hours
22 of the training required by subdivision (b) of Section 7583.6.

23 *SEC. 33.5. Section 7583.20 of the Business and Professions*
24 *Code is amended to read:*

25 7583.20. (a) A registration issued under this chapter expires
26 *at midnight on the last day of the month* two years following the
27 ~~date of issuance or on the assigned renewal date. Every security~~
28 ~~guard issued a registration under this chapter that expires on or~~
29 ~~after January 1, 1997, and who is also issued or renews a firearms~~
30 ~~qualification card on or after January 1, 1997, shall be placed on~~
31 ~~a cyclical renewal so that the registration expires on the expiration~~
32 ~~date of the firearms qualification card. Notwithstanding any other~~
33 ~~provision of law, the bureau is authorized to extend or shorten the~~
34 ~~first term of registration following January 1, 1997, and to prorate~~
35 ~~the required registration fee in order to implement this cyclical~~
36 ~~renewal, unless renewed.~~ At least 60 days prior to the expiration,
37 a registrant seeking to renew a security guard registration shall
38 forward to the bureau a completed registration renewal application
39 and the renewal fee. The renewal application shall be on a form
40 prescribed by the director, dated and signed by the applicant,

1 certifying under penalty of perjury that the information in the
2 application is true and correct.

3 (b) The licensee shall provide to any employee information
4 regarding procedures for renewal or registration.

5 (c) In the event a registrant fails to request a renewal of his or
6 her registration as provided for in this chapter, the registration
7 shall expire as indicated on the registration. If the registration is
8 renewed within 60 days after its expiration, the registrant, as a
9 condition precedent to renewal, shall pay the renewal fee and the
10 delinquency fee.

11 (d) The delinquency fee is 50 percent of the renewal fee in effect
12 on the date of expiration, but not less than twenty-five dollars
13 (\$25).

14 (e) If the renewed registration card has not been delivered to
15 the registrant prior to the expiration of the prior registration, the
16 registrant may present evidence of renewal to substantiate
17 continued registration for a period not to exceed 90 days after the
18 date of expiration.

19 (f) A registration may not be renewed or reinstated unless a
20 registrant meets both of the following requirements:

21 (1) All fines assessed pursuant to Section 7587.7 and not
22 resolved in accordance with the provisions of that section have
23 been paid.

24 (2) On and after July 1, 2005, the registrant certifies, on a form
25 prescribed by the bureau, that he or she has completed the 32 hours
26 of the training required by subdivision (b) of Section 7583.6.

27 (g) *This section shall become inoperative on July 1, 2018, and,*
28 *as of January 1, 2019, is repealed.*

29 SEC. 34. Section 7583.21 of the Business and Professions
30 Code is amended to read:

31 7583.21. The registration of a security guard shall be
32 automatically suspended if the guard is convicted of any crime
33 that is substantially related to the functions, duties, and
34 responsibilities of a security guard. The automatic suspension shall
35 be effectuated by the mailing of a notice of conviction and
36 suspension of license to be sent by the bureau to the registered
37 guard at his or her address of record. The notice shall contain a
38 statement of preliminary determination by the director or his or
39 her designee that the crime stated is reasonably related to the
40 functions, duties, and responsibilities of a security guard. Upon

1 proper request by the guard, a hearing shall be convened within
2 60 days of the request, before the private security disciplinary
3 review committee, as specified in Section 7581.3, for a
4 determination as to whether the automatic suspension shall be
5 made permanent or whether the registration shall be revoked or
6 the guard otherwise disciplined.

7 In enacting this provision, the Legislature finds and declares that
8 registered guards convicted of the commission of crimes reasonably
9 related to the functions, duties, and responsibilities of a security
10 guard shall be subject to automatic suspension of their license and
11 that summary suspension is justified by compelling state interests
12 of public safety and security within the meaning of the California
13 Supreme Court's decision in *Eye Dog Foundation v. State Board*
14 *of Guide Dogs for the Blind*, 67 Cal. 2d 536.

15 SEC. 35. Section 7583.32 of the Business and Professions
16 Code is amended to read:

17 7583.32. (a) A firearms qualification card expires two years
18 from the date of issuance, if not renewed. A person who wishes
19 to renew a firearms qualification card shall file an application for
20 renewal at least 60 days prior to the card's expiration. A person
21 whose card has expired shall not carry a firearm until he or she
22 has been issued a renewal card by the bureau.

23 (b) The bureau shall not renew a firearms qualification card
24 unless all of the following conditions are satisfied:

25 (1) The cardholder has filed with the bureau a completed
26 application for renewal of a firearms qualification card, on a form
27 prescribed by the director, dated and signed by the applicant under
28 penalty of perjury certifying that the information on the application
29 is true and correct.

30 (2) The applicant has requalified on the range and has
31 successfully passed a written examination based on course content
32 as specified in the firearms training manual approved by the
33 department and taught at a training facility approved by the bureau.

34 (3) The application is accompanied by a firearms requalification
35 fee as prescribed in this chapter.

36 (4) The applicant has produced evidence to the firearm training
37 facility, either upon receiving his or her original qualification card
38 or upon filing for renewal of that card, that he or she is a citizen
39 of the United States or has permanent legal alien status in the
40 United States. Evidence of citizenship or permanent legal alien

1 status is that deemed sufficient by the bureau to ensure compliance
2 with federal laws prohibiting possession of firearms by persons
3 unlawfully in the United States and may include, but not be limited
4 to, the United States Department of Justice, Immigration and
5 Naturalization Service Form I-151 or I-551, Alien Registration
6 Receipt Card, naturalization documents, or birth certificates
7 evidencing lawful residence or status in the United States.

8 (c) An expired firearms qualification card may not be renewed.
9 A person with an expired registration is required to apply for a
10 new firearms qualification in the manner required of persons not
11 previously registered. A person whose card has expired shall not
12 carry a firearm until he or she has been issued a new firearms
13 qualification card by the bureau.

14 (d) Paragraph (2) of subdivision (b) shall not apply to a duly
15 appointed peace officer, as defined in Chapter 4.5 (commencing
16 with Section 830) of Title 3 of Part 2 of the Penal Code, who is
17 authorized to carry a firearm in the course of his or her duties and
18 who has successfully completed requalification training or to a
19 federal qualified law enforcement officer, as defined in Section
20 926B of Title 18 of the United States Code (18 U.S.C. Sec. 926B),
21 who is authorized to carry a firearm in the course of his or her
22 duties and who has successfully completed requalification training.

23 SEC. 36. Section 7586 of the Business and Professions Code
24 is amended to read:

25 7586. A private patrol operator license, branch office certificate,
26 and pocket card issued under this chapter expires at midnight on
27 the last day of the month two years following the date of issuance
28 unless renewed.

29 SEC. 37. Section 7590.1 of the Business and Professions Code,
30 as amended by Section 1 of Chapter 140 of the Statutes of 2015,
31 is amended to read:

32 7590.1. The following terms as used in this chapter have the
33 meaning expressed in this article:

34 (a) "Person" means any individual, firm, company, association,
35 organization, partnership, limited liability company, or corporation.

36 (b) "Department" means the Department of Consumer Affairs.

37 (c) "Director" means the Director of Consumer Affairs.

38 (d) "Bureau" means the Bureau of Security and Investigative
39 Services.

1 (e) “Chief” means the Chief of the Bureau of Security and
2 Investigative Services.

3 (f) “Employer” means a person who employs an individual for
4 wages or salary, lists the individual on the employer’s payroll
5 records, and withholds all legally required deductions and
6 contributions.

7 (g) “Employee” means an individual who works for an
8 employer, is listed on the employer’s payroll records, and is under
9 the employer’s direction and control.

10 (h) “Employer-employee relationship” means an individual who
11 works for another and where the individual’s name appears on the
12 payroll records of the employer.

13 (i) “Licensee” means a business entity, whether an individual,
14 partnership, limited liability company, or corporation licensed
15 under this chapter.

16 (j) “Qualified manager” means an individual who is in active
17 control, management, and direction of the licensee’s business, and
18 who is in possession of a current and valid qualified manager’s
19 certificate pursuant to this chapter.

20 (k) “Registrant” means any person registered or who has applied
21 for registration under this chapter.

22 (l) “Branch office” means any location, other than the principal
23 place of business of the licensee, which is licensed as set forth in
24 Article 11 (commencing with Section 7599.20).

25 (m) “Branch office manager” means an individual designated
26 by the qualified manager to manage the licensee’s branch office
27 and who has met the requirements as set forth in Article 11
28 (commencing with Section 7599.20).

29 (n) “Alarm system” means an assembly of equipment and
30 devices arranged to signal the presence of a hazard requiring urgent
31 attention and to which police may respond.

32 (o) “Alarm agent” means a person employed by an alarm
33 company operator whose duties include selling on premises,
34 altering, installing, maintaining, moving, repairing, replacing,
35 servicing, responding, or monitoring an alarm system, or a person
36 who manages or supervises a person employed by an alarm
37 company to perform any of the duties described in this subdivision
38 or any person in training for any of the duties described in this
39 subdivision.

1 (p) “Deadly weapon” means and includes any instrument or
2 weapon of the kind commonly known as a blackjack, slungshot,
3 billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol,
4 revolver, or any other firearm; any knife having a blade longer
5 than five inches; any razor with an unguarded blade; or any metal
6 pipe or bar used or intended to be used as a club.

7 (q) “Firearms permit” means a permit issued by the bureau,
8 pursuant to Article 6 (commencing with Section 7596), to a
9 licensee, a qualified manager, or an alarm agent, to carry an
10 exposed firearm while on duty.

11 (r) (1) “Advertisement” means:

12 (A) Any written or printed communication for the purpose of
13 soliciting, describing, or promoting the licensed business of the
14 licensee, including a brochure, letter, pamphlet, newspaper,
15 periodical, publication, or other writing.

16 (B) A directory listing caused or permitted by the licensee which
17 indicates his or her licensed activity.

18 (C) A radio, television, or similar airwave transmission which
19 solicits or promotes the licensed business of the licensee.

20 (2) “Advertisement” does not include any of the following:

21 (A) Any printing or writing used on buildings, vehicles,
22 uniforms, badges, or other property where the purpose of the
23 printing or writing is identification.

24 (B) Any printing or writing on communications, memoranda,
25 or any other writings used in the ordinary course of business where
26 the sole purpose of the writing is other than the solicitation or
27 promotion of business.

28 (C) Any printing or writing on novelty objects used in the
29 promotion of the licensee’s business where the printing of the
30 information required by this chapter would be impractical due to
31 the available area or surface.

32 (s) “Residential sales agreement” means and includes an
33 agreement between an alarm company operator and an owner or
34 tenant for the purchase of an alarm system to be utilized in the
35 personal residence of the owner or tenant.

36 (t) “Firearm permit” means and includes “firearms permit,”
37 “firearms qualification card,” “firearms qualification,” and
38 “firearms qualification permit.”

(u) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 38. Section 7590.1 of the Business and Professions Code, as amended by Section 2 of Chapter 140 of the Statutes of 2015, is amended to read:

7590.1. The following terms as used in this chapter have the meaning expressed in this article:

(a) "Person" means any individual, firm, company, association, organization, partnership, limited liability company, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Security and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

(i) "Licensee" means a business entity, whether an individual, partnership, or corporation licensed under this chapter.

(j) "Qualified manager" means an individual who is in active control, management, and direction of the licensee's business, and who is in possession of a current and valid qualified manager's certificate pursuant to this chapter.

(k) "Registrant" means any person registered or who has applied for registration under this chapter.

(l) "Branch office" means any location, other than the principal place of business of the licensee, which is licensed as set forth in Article 11 (commencing with Section 7599.20).

(m) "Branch office manager" means an individual designated by the qualified manager to manage the licensee's branch office

1 and who has met the requirements as set forth in Article 11
2 (commencing with Section 7599.20).

3 (n) “Alarm system” means an assembly of equipment and
4 devices arranged to signal the presence of a hazard requiring urgent
5 attention and to which police may respond.

6 (o) “Alarm agent” means a person employed by an alarm
7 company operator whose duties include selling on premises,
8 altering, installing, maintaining, moving, repairing, replacing,
9 servicing, responding, or monitoring an alarm system, or a person
10 who manages or supervises a person employed by an alarm
11 company to perform any of the duties described in this subdivision
12 or any person in training for any of the duties described in this
13 subdivision.

14 (p) “Deadly weapon” means and includes any instrument or
15 weapon of the kind commonly known as a blackjack, slungshot,
16 billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol,
17 revolver, or any other firearm; any knife having a blade longer
18 than five inches; any razor with an unguarded blade; or any metal
19 pipe or bar used or intended to be used as a club.

20 (q) “Firearms permit” means a permit issued by the bureau,
21 pursuant to Article 6 (commencing with Section 7596), to a
22 licensee, a qualified manager, or an alarm agent, to carry an
23 exposed firearm while on duty.

24 (r) (1) “Advertisement” means:

25 (A) Any written or printed communication for the purpose of
26 soliciting, describing, or promoting the licensed business of the
27 licensee, including a brochure, letter, pamphlet, newspaper,
28 periodical, publication, or other writing.

29 (B) A directory listing caused or permitted by the licensee which
30 indicates his or her licensed activity.

31 (C) A radio, television, or similar airwave transmission which
32 solicits or promotes the licensed business of the licensee.

33 (2) “Advertisement” does not include any of the following:

34 (A) Any printing or writing used on buildings, vehicles,
35 uniforms, badges, or other property where the purpose of the
36 printing or writing is identification.

37 (B) Any printing or writing on communications, memoranda,
38 or any other writings used in the ordinary course of business where
39 the sole purpose of the writing is other than the solicitation or
40 promotion of business.

1 (C) Any printing or writing on novelty objects used in the
2 promotion of the licensee's business where the printing of the
3 information required by this chapter would be impractical due to
4 the available area or surface.

5 (s) "Residential sales agreement" means and includes an
6 agreement between an alarm company operator and an owner or
7 tenant for the purchase of an alarm system to be utilized in the
8 personal residence of the owner or tenant.

9 (t) "Firearm permit" means and includes "firearms permit,"
10 "firearms qualification card," "firearms qualification," and
11 "firearms qualification permit."

12 (u) This section shall become operative on January 1, 2019.

13 SEC. 39. Section 7593.11 of the Business and Professions
14 Code is amended to read:

15 7593.11. An alarm company operator license issued under this
16 chapter expires at midnight on the last day of the month two years
17 following the date of issuance unless renewed. To renew an
18 unexpired license or certificate, the licensee shall apply for renewal
19 on a form prescribed by the director, pay all fines assessed pursuant
20 to Section 7591.9 and not resolved in accordance with the
21 provisions of that section, and pay the renewal fee. On renewal,
22 evidence of renewal of the license or certificate that the director
23 may prescribe shall be issued to the licensee. The bureau shall
24 send to each licensee a notice of renewal at least 45 calendar days
25 prior to the expiration of each license.

26 SEC. 40. Section 7598.17 of the Business and Professions
27 Code is amended to read:

28 7598.17. (a) A registration issued under this chapter expires
29 at midnight on the last day of the month two years following the
30 date of issuance unless renewed. At least 60 days prior to the
31 expiration of a registration, a registrant who desires to renew his
32 or her registration shall forward to the bureau a completed
33 registration renewal application and renewal fee. The renewal
34 application shall be on a form prescribed by the director, dated
35 and signed by the applicant, certifying under penalty of perjury
36 that the information in the application is true and correct.

37 (b) The licensee shall provide to any employee information
38 regarding procedures for renewal of registration.

39 (c) An expired registration may be renewed provided the
40 registrant files a renewal application on a form prescribed by the

1 director and the renewal and delinquency fees prescribed by this
2 chapter are returned to the bureau within 60 days of the expiration
3 date of the registration. A firearms permit is not valid while the
4 registration is expired.

5 (d) A registration not renewed within 60 days following its
6 expiration may not be renewed thereafter. The holder of the expired
7 registration may obtain a new registration only on compliance with
8 all of the provisions of this chapter relating to the issuance of an
9 original registration. The delinquency fee is 50 percent of the
10 renewal fee in effect on the date of expiration, but not less than
11 twenty-five dollars (\$25).

12 (e) The holder of an expired registration shall not engage in the
13 activity for which a registration is required until the bureau issues
14 a renewal registration.

15 (f) If the renewed registration card has not been delivered to the
16 registrant, prior to the date of expiration of the prior registration,
17 the registrant may present evidence of renewal to substantiate
18 continued registration, for a period not to exceed 90 days after the
19 date of expiration.

20 (g) A registration may not be renewed or reinstated until all
21 fines assessed pursuant to Section 7591.9 and not resolved in
22 accordance with the provisions of that section have been paid.

23 (h) A new registration shall be issued subject to payment of all
24 fines assessed pursuant to Section 7591.9 and not resolved in
25 accordance with the provisions of Section 7591.9 and payment of
26 all applicable fees.

27 *SEC. 40.5. Section 7598.17 of the Business and Professions*
28 *Code is amended to read:*

29 7598.17. (a) A registration issued under this chapter expires
30 *at midnight on the last day of the month* two years following the
31 ~~date of issuance or on the assigned renewal date. Every alarm agent~~
32 ~~issued a registration under this chapter that expires on or after~~
33 ~~January 1, 1997, and who is also issued or renews a firearms~~
34 ~~qualification card on or after January 1, 1997, shall be placed on~~
35 ~~a cyclical renewal so that the registration expires on the expiration~~
36 ~~date of the firearms qualification card. Notwithstanding any other~~
37 ~~provision of law, the bureau is authorized to extend or shorten the~~
38 ~~first term of registration following January 1, 1997, and to prorate~~
39 ~~the required registration fee in order to implement this cyclical~~
40 ~~renewal; unless renewed.~~ At least 60 days prior to the expiration

1 of a registration, a registrant who desires to renew his or her
2 registration shall forward to the bureau a ~~copy of his or her current~~
3 ~~registration card, along with the renewal fee as set forth in this~~
4 ~~chapter, to the bureau for renewal of his or her registration.~~
5 *completed registration renewal application and renewal fee. The*
6 *renewal application shall be on a form prescribed by the director,*
7 *dated and signed by the applicant, certifying under penalty of*
8 *perjury that the information in the application is true and correct.*

9 (b) The licensee shall provide to any employee information
10 regarding procedures for renewal of registration.

11 (c) An expired registration may be renewed provided the
12 registrant files a renewal application on a form prescribed by the
13 director and the renewal and delinquency fees prescribed by this
14 chapter are returned to the bureau within 60 days of the expiration
15 date of the registration. A firearms permit is not valid while the
16 registration is expired.

17 (d) A registration not renewed within 60 days following its
18 expiration may not be renewed thereafter. The holder of the expired
19 registration may obtain a new registration only on compliance with
20 all of the provisions of this chapter relating to the issuance of an
21 original registration. The delinquency fee is 50 percent of the
22 renewal fee in effect on the date of expiration, but not less than
23 twenty-five dollars (\$25).

24 (e) The holder of an expired registration shall not engage in the
25 activity for which a registration is required until the bureau issues
26 a renewal registration.

27 (f) If the renewed registration card has not been delivered to the
28 registrant, prior to the date of expiration of the prior registration,
29 the registrant may present evidence of renewal to substantiate
30 continued registration, for a period not to exceed 90 days after the
31 date of expiration.

32 (g) A registration may not be renewed or reinstated until all
33 fines assessed pursuant to Section 7591.9 and not resolved in
34 accordance with the provisions of that section have been paid.

35 (h) A new registration shall be issued subject to payment of all
36 fines assessed pursuant to Section 7591.9 and not resolved in
37 accordance with the provisions of Section 7591.9 and payment of
38 all applicable fees.

39 (i) *This section shall become inoperative on July 1, 2018, and,*
40 *as of January 1, 2019, is repealed.*

SEC. 41. Section 7599.54 of the Business and Professions Code is amended to read:

7599.54. (a) Except as provided by Section 7599.56, every agreement, including, but not limited to, lease agreements, monitoring agreements, and service agreements, including all labor, services, and materials to be provided for the installation of an alarm system, shall be in writing. Except as provided by Section 7599.56, all amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(1) The name, business address, business telephone number, and license number of the licensed alarm company operator and the registration number of any alarm agent who solicited or negotiated the agreement.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(4) A disclosure that alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, including the bureau's current address and contact information.

(5) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(6) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in a form as to clearly describe any other document which is to be incorporated into the contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(7) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(8) In the event a mechanic's lien is to be utilized, a notice-to-owner statement which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of

1 an owner of property and a contractor thereunder, including the
2 provisions relating to the filing of a contract concerning a work of
3 improvement with the county recorder and the recording in the
4 office of a contractor's payment bond for private work.

5 (9) For residential agreements entered into on or after January
6 1, 2017, that include an automatic renewal provision renewing the
7 agreement for a period of more than one month, a clear and distinct
8 disclosure shall be included separate from the terms and conditions
9 of the agreement advising the consumer that the agreement he or
10 she is entering into contains an automatic renewal provision. The
11 disclosure shall include the length of time of the renewal term and
12 specify that failure to provide notification of nonrenewal to the
13 licensee, as required in the agreement, will result in the automatic
14 renewal of the agreement. The consumer shall acknowledge being
15 advised of the automatic renewal provision by signing or initialing
16 the disclosure. The disclosure may be included on the same
17 document as the three-day right to cancel form required by Section
18 1689.7 of the Civil Code. The automatic renewal provision shall
19 be void and invalid without a separate acknowledgment of the
20 disclosure by the consumer.

21 (10) In addition to the above, every initial residential sales and
22 lease agreement, the total cost which over the time period fixed
23 by the agreement exceeds two hundred fifty dollars (\$250),
24 including the cost of all labor, service, or material to be provided
25 by the licensee for the installation, shall include, but not be limited
26 to, the following:

27 (A) A schedule of payments showing the amount of each
28 payment as a sum in dollars and cents. This schedule of payments
29 shall be referenced to the amount of work for services to be
30 performed or to any materials or equipment to be supplied.

31 (B) If the payment schedule contained in the agreement provides
32 for a downpayment to be paid to the licensee by the owner or the
33 tenant before commencement of the work, that downpayment shall
34 not exceed one thousand dollars (\$1,000) or 10 percent of the
35 contract price, excluding finance charges, whichever is the lesser.

36 (C) In no event shall the payment schedule provide that the
37 licensee receive, nor shall the licensee actually receive, payment
38 in excess of 100 percent of the value of the work performed on
39 the project at any time, excluding finance charges, except that the
40 licensee may receive an initial downpayment authorized by

1 subparagraph (B). A failure by the licensee, without legal excuse,
2 to substantially commence work within 20 days of the approximate
3 date specified in the contract when work is to commence, shall
4 postpone the next succeeding payment to the licensee for that
5 period of time equivalent to the time between when substantial
6 commencement was to have occurred and when it did occur.

7 (D) A notice-to-owner statement which shall describe, in
8 nontechnical language and in a clear and coherent manner using
9 words with common and everyday meaning, the pertinent
10 provisions of this state's mechanics' lien laws and the rights and
11 responsibilities of an owner of property and a contractor thereunder,
12 including the provisions relating to the filing of a contract
13 concerning a work of improvement with the county recorder and
14 the recording in the office of a contractor's payment bond for
15 private work.

16 (E) A description of what constitutes substantial commencement
17 of work pursuant to the contract.

18 (F) A disclosure that failure by the licensee, without legal
19 excuse, to substantially commence work within 20 days from the
20 approximate date specified in the agreement when the work will
21 begin is a violation of the Alarm Company Act.

22 (G) A disclosure informing the buyer of any potential permit
23 fees which may be required by local jurisdictions concerning the
24 monitoring of an existing alarm system.

25 (H) This section shall not be construed to prohibit the parties
26 to a residential alarm system sale contract from agreeing to a
27 contract or account subject to Chapter 1 (commencing with Section
28 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

29 (b) A violation of this section or failure to commence work
30 pursuant to subparagraph (F) of paragraph (10) of subdivision (a)
31 may result in a fine of one hundred dollars (\$100) for the first
32 violation and a fine of five hundred dollars (\$500) for each
33 subsequent violation.

34 SEC. 42. Section 7713 of the Business and Professions Code
35 is amended to read:

36 7713. A crematory shall at all times employ a licensed
37 crematory manager to manage, supervise, and direct its operations.

38 (a) Every crematory shall designate a licensed crematory
39 manager to manage the crematory, and shall report the designation
40 to the bureau within 10 days of the effective date. Any change in

1 the designated manager shall be reported to the bureau within 10
2 days. Notwithstanding any provision of this chapter to the contrary,
3 licensed crematories within close geographical proximity of each
4 other may request the bureau to allow a licensed crematory
5 manager to manage, supervise, and direct the business or profession
6 of more than one facility.

7 (b) The designated crematory manager shall be responsible for
8 exercising direct supervision and control over the operations,
9 employees, and agents of the crematory as is necessary to ensure
10 full compliance with the applicable provisions of this code, the
11 Health and Safety Code, and any regulations adopted thereto.
12 Failure of the designated crematory manager or the licensed
13 crematory to exercise that supervision or control shall constitute
14 a ground for disciplinary action.

15 (c) A crematory may employ, in addition to the designated
16 crematory manager, additional licensed crematory managers.
17 However, only one licensed crematory manager may be appointed
18 as the designated crematory manager of the crematory.

19 SEC. 43. Section 8567 of the Business and Professions Code
20 is amended to read:

21 8567. (a) Should a field representative or applicator change
22 his or her employment, or should an operator enter the employ of
23 a registered company, or being already employed by a registered
24 company change his or her employment, or being employed by a
25 registered company leave that employment and enter the pest
26 control business on his or her own behalf, he or she shall notify
27 the registrar on a form prescribed by the board and issued by the
28 registrar in accordance with rules and regulations adopted by the
29 board. The registrar shall register the change in his or her records.

30 (b) If a field representative, operator, or applicator fails to notify
31 the registrar within 30 days of the date a change of employment
32 occurs, a registered company may notify the registrar, on a form
33 prescribed by the board, that the field representative, operator, or
34 applicator is no longer associated with the registered company.

35 SEC. 44. Section 12003 of the Business and Professions Code
36 is amended to read:

37 12003. "Secretary" means the Secretary of Food and
38 Agriculture.

39 SEC. 45. Section 12014 of the Business and Professions Code
40 is amended to read:

1 12014. (a) Except as provided in subdivision (b), any sealer
2 who seals any weight, measure, balance or weighing or measuring
3 instrument or apparatus before first testing and making it conform
4 with the standards of the state, or who condemns any weight,
5 measure, balance or weighing or measuring instrument or apparatus
6 without first testing it is guilty of a misdemeanor.

7 (b) A sealer may engage in a planned program of probability
8 sampling of devices, using methods approved by the secretary.
9 The sealing of a device by a sealer pursuant to such sampling and
10 testing program is exempt from the provisions of subdivision (a).

11 SEC. 46. Section 12022 of the Business and Professions Code
12 is amended to read:

13 12022. Every person who, in putting up in any container, goods
14 usually sold by weight, puts in or conceals therein any other
15 substance including moisture, except such moisture as may be
16 included or absorbed by the goods or commodity contained therein
17 during preparation for market or processing in accordance with
18 ordinary commercial practice, for the purpose of increasing the
19 weight of such container with intent thereby to sell the goods
20 therein or to enable another to sell the same, for an increased
21 weight, is punishable by a fine of not less than twenty-five dollars
22 (\$25) for each offense. The amount of added moisture contained
23 in poultry meat as defined in Section 380.20 of the Agricultural
24 Code shall not exceed 4 percent by weight or any greater amount
25 established by regulation of the secretary.

26 SEC. 47. Section 12103.5 of the Business and Professions
27 Code is amended to read:

28 12103.5. The duty of enforcing this division and carrying out
29 its provisions and requirements is vested in the secretary and in
30 each sealer acting under the supervision and direction of the
31 secretary.

32 SEC. 48. Section 12204 of the Business and Professions Code
33 is amended to read:

34 12204. In chartered counties providing for the civil service
35 examination of sealers, deputy sealers, or inspectors the secretary
36 shall issue a license without further examination upon presentation
37 of a certificate showing the candidate has passed the examination.
38 In these counties the board or commission responsible for the civil
39 service examination may require a license from the secretary as a
40 minimum qualification.

1 SEC. 49. Section 12206 of the Business and Professions Code
2 is amended to read:

3 12206. The jurisdiction of a county sealer appointed by a
4 county or the secretary extends over the entire territorial limits of
5 the county.

6 SEC. 50. Section 12303 of the Business and Professions Code
7 is amended to read:

8 12303. The state standards of weights and measures by which
9 all state and county standards of weights and measures shall be
10 tried, proved, and sealed include the following standards, provided
11 the standards have been certified relative to national standards
12 under the direction of the National Institute of Standards and
13 Technology:

- 14 (a) Metrological standards provided by the United States.
- 15 (b) Metrological standards procured by the state.
- 16 (c) Metrological standards in the possession of county sealers.
- 17 (d) Metrological standards in the possession of laboratories
18 certified to perform measurement services pursuant to Section
19 12500.7.

20 SEC. 51. Section 12304 of the Business and Professions Code
21 is amended to read:

22 12304. The standards of the state shall be kept in a suitable
23 laboratory location or, if transportable, shall be maintained under
24 environmental conditions appropriate for maintaining the integrity
25 of the unit of measure represented by the standard. The standards
26 shall be directly certified by the National Institute of Standards
27 and Technology or by any measurement assurance procedures
28 approved by the National Institute of Standards and Technology.

29 *SEC. 51.5. Section 12304 of the Business and Professions Code*
30 *is amended to read:*

31 12304. *The department shall keep the standards of the state*
32 ~~shall be kept~~ *in a suitable laboratory location or, if transportable,*
33 ~~shall be maintained~~ *maintain the standards* under environmental
34 conditions appropriate for maintaining the integrity of the unit of
35 measure represented by the standard. ~~The standards department~~
36 ~~shall be have the standards~~ directly certified by the National
37 ~~Bureau~~ *Institute of Standards and Technology* or by any
38 measurement assurance procedures approved by the National
39 ~~Bureau of Standards.~~ *Institute of Standards and Technology.*

SEC. 52. Section 12310 of the Business and Professions Code is amended to read:

12310. The department, or a laboratory designated by the department that has been certified pursuant to Section 12500.7, shall certify the standards of the county sealers as often as may be deemed by the secretary to be necessary, based upon a review of statistical data resulting from previous certifications, but in no event shall the period of time between certifications exceed 10 years. In the absence of statistical data, standards shall be certified at least every two years. Sealers shall, upon the request of the department, deliver for testing those standards in their possession that are used in the discharge of their duties. Direct expenses incurred in the certification process shall be borne by the state, while any incidental expense, such as the cost of transportation, shall be borne by the county whose standards have been certified.

SEC. 52.5. *Section 12310 of the Business and Professions Code is amended to read:*

12310. The department, or a laboratory designated by the department ~~which~~ *that* has been certified pursuant to Section ~~12500.7; 12314~~, shall certify the standards of the county sealers as often as may be deemed by the ~~director~~ *secretary* to be necessary, based upon a review of statistical data resulting from previous certifications, but in no event shall the period of time between certifications exceed 10 years. In the absence of statistical data, standards shall be certified at least every two years. Sealers shall, upon the request of the department, deliver for testing those standards in their possession ~~which~~ *that* are used in the discharge of their duties. Direct expenses incurred in the certification process shall be borne by the ~~state~~; *state or recovered pursuant to Section 12241*, while any incidental expense, such as the cost of transportation, shall be borne by the county whose standards have been certified.

SEC. 53. Section 12310.5 of the Business and Professions Code is amended to read:

12310.5. The department shall, upon request, certify and verify the various types of standards of weights and measures used by industry in accordance with the standards certified by the National Institute of Standards and Technology, when such standards are submitted to the department for verification and certification.

1 The department shall establish a schedule of fees sufficient to
2 cover the cost of furnishing such services. All money received
3 under the provisions of this section shall be paid into the State
4 Treasury and credited to the Department of Agriculture Fund to
5 be expended by the department for the administration of the
6 provisions of this section.

7 SEC. 54. Section 12313 of the Business and Professions Code
8 is amended to read:

9 12313. The definitions of basic units of weight and measure,
10 and the tables of weight and measure and weights and measures
11 equivalents, as published by the National Institute of Standards
12 and Technology are recognized and shall govern weighing and
13 measuring equipment and transactions in this state.

14 SEC. 55. Section 12500 of the Business and Professions Code
15 is amended to read:

16 12500. As used in this chapter the following terms mean:

17 (a) "Weighing instrument" means any device, contrivance,
18 apparatus, or instrument used, or designed to be used, for
19 ascertaining weight and includes any tool, appliance, or accessory
20 used or connected therewith.

21 (b) "Measuring instrument" means any device, contrivance,
22 apparatus, or instrument used, or designed to be used, for
23 ascertaining measure and includes any tool, appliance, or accessory
24 used or connected therewith.

25 (c) "Correct" means any weight or measure or weighing,
26 measuring, or counting instrument ~~which~~ *that* meet all of the
27 tolerance and specification requirements established by the
28 secretary pursuant to Section 12107.

29 (d) "Incorrect" means any instrument ~~which~~ *that* fails to meet
30 all of the requirements of Section 12107.

31 (e) "Commercial purposes" include the determination of the
32 weight, measure, or count of any commodity or thing that is sold
33 on the basis of weight, measure, or count; or the determination of
34 the weight, measure, or count of any commodity or thing upon
35 which determination a charge for service is based. Devices used
36 in a determination upon which a charge for service is based include,
37 but are not limited to, taximeters, odometers, timing devices, parcel
38 scales, shipping scales, and scales used in the payment of
39 agricultural workers.

“Commercial purposes” do not include the determination of the weight, measure, or count of any commodity or thing that is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing, or the determination of charges for the transmission of letters or parcels of less than 150 pounds, except when that determination is made in the presence of the customer charged for the service.

SEC. 55.5. Section 12500 of the Business and Professions Code is amended to read:

12500. As used in this chapter the following terms mean:

(a) “Weighing instrument” means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) “Measuring instrument” means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) “Correct” means any weight or measure or weighing, measuring, or counting instrument ~~which~~ that meet all of the tolerance and specification requirements established by the ~~director~~ *secretary* pursuant to Section 12107.

(d) “Incorrect” means any instrument ~~which~~ that fails to meet all of the requirements of Section 12107.

(e) “Commercial purposes” include the determination of the weight, measure, or count of any commodity or thing ~~which~~ that is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination a charge for service is based. Devices used in a determination upon which a charge for service is based include, but are not limited to, taximeters, odometers, timing devices, parcel scales, shipping scales, and scales used in the payment of agricultural workers.

“Commercial purposes” do not include the determination of the weight, measure, or count of any commodity or thing ~~which~~ that is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing, or the determination of charges for the transmission of letters or parcels of less than 150 pounds, except when that determination is made in the presence of the customer

1 charged for the ~~service~~. *service, or the determination of the weight*
2 *of any animal or human by a qualified health provider,*
3 *California-licensed veterinarian, licensed physician and surgeon,*
4 *or staff members within the business operations of, and under the*
5 *supervision of, a California-licensed veterinarian or licensed*
6 *physician and surgeon for the purposes of determining the*
7 *appropriate dosage of any medication or medical treatment or the*
8 *volume, duration, or application of any medical procedure.*

9 SEC. 56. Section 12500.8 of the Business and Professions
10 Code is amended to read:

11 12500.8. The secretary may enter into an agreement with the
12 National Type Evaluation Program, a certification program of the
13 National Conference on Weights and Measures, and other weights
14 and measures jurisdictions, to accept the certifications of each
15 other for prototype examination purposes.

16 SEC. 57. Section 12501.1 of the Business and Professions
17 Code is amended to read:

18 12501.1. Every person who uses, or intends to use, any weight
19 or measure, or weighing or measuring instrument for commercial
20 purposes shall, before using the same, cause them to be sealed by
21 a sealer, unless they have been sealed before sale, in which case
22 they may be used by the purchaser for the remainder of such period
23 as is authorized in the regulations adopted by the secretary pursuant
24 to Section 12212, or until they become “incorrect,” as defined in
25 subdivision (d) of Section 12500.

26 Notwithstanding any other provision of law, an odometer that
27 has been tested by the manufacturer may be used commercially
28 without further test during the remainder of the inspection period
29 adopted by the secretary for odometers, but shall not be used
30 commercially thereafter until it has been sealed by a sealer.

31 SEC. 58. Section 12511 of the Business and Professions Code
32 is amended to read:

33 12511. Any weight, measure, or weighing or measuring
34 instrument tested and found correct by any sealer may be used
35 within this state without any further test for such period as is
36 authorized in the regulations adopted by the secretary pursuant to
37 Section 12212. If tested and sealed and certified to as correct by
38 the National Institute of Standards and Technology, any weight,
39 measure, or weighing or measuring instrument may be sold without
40 being first tested and sealed by a sealer. In either case, it shall be

1 subject to inspection and testing notwithstanding that it has been
2 tested and sealed either by a sealer or by the National Institute of
3 Standards and Technology.

4 SEC. 59. Section 12602 of the Business and Professions Code
5 is amended to read:

6 12602. (a) It is unlawful for any person engaged in the
7 packaging or labeling of any commodity for distribution or sale,
8 or for any person (other than a common carrier for hire, a contract
9 carrier for hire, or a freight forwarder for hire) engaged in the
10 distribution of any packaged or labeled commodity, to distribute
11 or to cause to be distributed any such commodity if the commodity
12 is contained in a package, or if there is affixed to that commodity
13 a label, which does not conform to the provisions of this chapter
14 or the regulations adopted under the authority of this chapter or
15 the provisions of, or the regulations adopted under, Chapter 14
16 (commencing with Section 13400) or Chapter 15 (commencing
17 with Section 13700).

18 (b) The prohibition contained in subdivision (a) does not apply
19 to persons engaged in business as wholesale or retail distributors
20 of commodities, except to the extent that those persons (1) are
21 engaged in the packaging or labeling of such commodities, (2)
22 prescribe or specify by any means the manner in which such
23 commodities are packaged or labeled, or (3) have knowledge of
24 the violation of any provision of this chapter or of Chapter 6.6
25 (commencing with Section 12665), Chapter 14 (commencing with
26 Section 13400), or Chapter 15 (commencing with Section 13700).

27 SEC. 60. Section 12603 of the Business and Professions Code
28 is amended to read:

29 12603. No person subject to the prohibition in Section 12602
30 shall distribute any packaged commodity unless it is in conformity
31 with regulations that shall be established by the secretary that shall
32 provide:

33 (a) The commodity shall bear a label specifying the identity of
34 the commodity and the name and place of business of the
35 manufacturer, packer, or distributor.

36 (b) The net quantity of contents (in terms of weight or mass,
37 measure, numerical count, or time) shall be separately and
38 accurately stated in a uniform location upon the principal display
39 panel of that label, using the most appropriate units of both the
40 customary inch-pound system of measure, and except as provided

1 in subdivisions (c) and (d), the SI (Système International d'Unités)
2 metric system.

3 (c) On a random package labeled in terms of pounds and decimal
4 fractions of the pound, the statement may be carried out to not
5 more than three decimal places and is not required to, but may
6 include a statement in terms of the SI metric system carried out to
7 not more than three decimal places.

8 (d) The requirements of subdivision (b) concerning labeling
9 using the metric system do not apply to nonconsumer packages,
10 foods that are packaged at the retail store level, or to the sale or
11 distribution of products whose labels have been printed prior to
12 February 14, 1994.

13 (e) This section shall become operative on February 14, 1994.

14 SEC. 61. Section 12701 of the Business and Professions Code
15 is amended to read:

16 12701. The following persons are not weighmasters:

17 (a) Retailers weighing, measuring, or counting commodities for
18 sale by them in retail stores in the presence of, and directly to,
19 consumers.

20 (b) Except for persons subject to Section 12730, producers of
21 agricultural commodities or livestock, who weigh commodities
22 produced or purchased by them or by their producer neighbors,
23 when no charge is made for the weighing, or when no signed or
24 initialed statement or memorandum is issued of the weight upon
25 which a purchase or sale of the commodity is based.

26 (c) Common carriers issuing bills of lading on which are
27 recorded, for the purpose of computing transportation charges, the
28 weights of commodities offered for transportation, including
29 carriers of household goods when transporting shipments weighing
30 less than 1,000 pounds.

31 (d) Milk samplers and weighers licensed pursuant to Article 8
32 (commencing with Section 35161) of Chapter 12 of Part 1 of
33 Division 15 of the Food and Agricultural Code, when performing
34 the duties for which they are licensed.

35 (e) Persons who measure the amount of oil, gas, or other fuels
36 for purposes of royalty computation and payment, or other
37 operations of fuel and oil companies and their retail outlets.

38 (f) Newspaper publishers weighing or counting newspapers for
39 sale to dealers or distributors.

1 (g) Textile maintenance establishments weighing, counting, or
2 measuring any articles in connection with the business of those
3 establishments.

4 (h) County sanitation districts operating pursuant to Chapter 3
5 (commencing with Section 4700) of Part 3 of Division 5 of the
6 Health and Safety Code, garbage and refuse disposal districts
7 operating pursuant to Chapter 2 (commencing with Section 49100)
8 of Part 8 of Division 30 of the Public Resources Code, and solid
9 waste facilities, as defined in Section 40194 of the Public
10 Resources Code.

11 (i) Persons who purchase scrap metal or salvage materials
12 pursuant to a nonprofit recycling program, or recycling centers
13 certified pursuant to Division 12.1 (commencing with Section
14 14500) of the Public Resources Code that purchase empty beverage
15 containers from the public for recycling.

16 (j) Pest control operators licensed pursuant to Chapter 4
17 (commencing with Section 11701) of Division 6 of the Food and
18 Agricultural Code.

19 (k) Retailers, or recycling centers established solely for the
20 redemption of empty beverage containers, as that phrase is defined
21 in Section 14512 of the Public Resources Code, who are weighing,
22 measuring, or counting salvage or returnable materials for purchase
23 or redemption by them in retail stores, or, in the case of recycling
24 centers, on the retail store premises or on a parking lot immediately
25 adjacent to a retail store that is used for the purpose of parking by
26 the store customers, directly from and in the presence of the seller.
27 “Retailer” means an entity that derives 90 percent or more of its
28 income from the sale of small quantities of food or nonfood items,
29 or both, directly to consumers. “Salvage materials” means used
30 paper products and used containers made of aluminum, tin, glass,
31 or plastic.

32 (l) Any log scaler who performs log scaling functions, except
33 weighing, as defined in the United States Forest Service Handbook,
34 Supplement No. 4 of March 1987.

35 (m) Pawnbrokers licensed pursuant to Chapter 3 (commencing
36 with Section 21300) of Division 8 of the Financial Code, and
37 secondhand dealers licensed pursuant to Article 4 (commencing
38 with Section 21625) of Chapter 9 of Division 8, when the
39 pawnbroker or secondhand dealer weighs property that it acquires
40 and reports the acquisition of the property pursuant to Section

1 21208 of the Financial Code or Article 4 (commencing with Section
2 21625) of Chapter 9 of Division 8, respectively.

3 (n) Facilities that handle medical waste and that report net
4 weights, and not estimates, to the generator of the medical waste
5 and the State Department of Public Health in accordance with the
6 Medical Waste Management Act (Part 14 (commencing with
7 Section 117600) of Division 104 of the Health and Safety Code).

8 (o) This section shall become operative on January 1, 2018.

9 SEC. 62. Section 12707 of the Business and Professions Code
10 is amended to read:

11 12707. Each license required by this chapter shall be renewed
12 annually, on or before the first day of the first month of the
13 licensee's license year, by application to the secretary, accompanied
14 by the annual license fee. An application and annual license fee
15 sent by mail is not overdue if postmarked not later than the fifth
16 day of the month in which it is due. To any fee not paid when due,
17 there shall be added a penalty equal to 30 percent of the amount
18 of the license fee, if it is paid within 30 days of becoming due. The
19 penalty for a renewal fee more than 30 days after becoming due
20 shall be 100 percent of the amount of the license fee. However,
21 no penalty shall be applicable to the renewal of deputy weighmaster
22 licenses.

23 SEC. 63. Section 12716 of the Business and Professions Code
24 is amended to read:

25 12716. All weighmasters shall keep and preserve, as records,
26 for a period of four years, all copies of voided certificates, records,
27 and worksheets required by this chapter and true copies of all
28 weighmaster certificates issued. These records shall, at all times,
29 be open for inspection by the secretary.

30 SEC. 64. Section 12717 of the Business and Professions Code
31 is amended to read:

32 12717. Any weighing, measuring, or counting instrument or
33 device, as defined in Section 12500, which is used by a
34 weighmaster and for which specifications and tolerances have been
35 adopted by the secretary, shall be approved, tested, and sealed in
36 accordance with this division.

37 SEC. 65. Section 12722 of the Business and Professions Code
38 is amended to read:

39 12722. (a) In accordance with this chapter and regulations
40 adopted by the secretary, any weighmaster may use a tare weight

1 for a vehicle, container, or pallet that has been previously
2 determined by a weighmaster. It is the responsibility of the party
3 for whom the tare weight was established to maintain the tare
4 weight within the variations prescribed by the secretary.

5 (b) Any weighmaster weighing any vehicle moving earth, stone,
6 rock, sand, gravel, or asphalt paving material may use a
7 predetermined tare weight. The issuance of predetermined tare
8 weights are exempt from the provisions of Division 9 (commencing
9 with Section 4000) of Title 4 of the California Code of Regulations.
10 It is the responsibility of the party for whom the tare weight was
11 established to maintain the actual weight so that the actual tare
12 weight of the vehicle shall at no time exceed the recorded tare
13 weight.

14 SEC. 66. Section 12734 of the Business and Professions Code
15 is amended to read:

16 12734. Notwithstanding any other provision of this division,
17 the weight of squid, Pacific whiting, or anchovy, certified pursuant
18 to this chapter, may be determined by computation based upon
19 volumetric measurement of containers as prescribed by regulations
20 adopted by the secretary. This section does not apply to squid,
21 Pacific whiting, or anchovy delivered for the purpose of retorting
22 or reducing.

23 SEC. 67. Section 12737 of the Business and Professions Code,
24 as added by Section 1 of Chapter 344 of the Statutes of 2012, is
25 amended to read:

26 12737. (a) Any weighmaster weighing any vehicle moving
27 construction materials, including, but not limited to, earth, stone,
28 rock, sand, gravel, limestone, ready mixed concrete, cementitious
29 materials, recycled construction materials, or asphalt paving
30 materials may use an unattended weighing system to weigh the
31 vehicle and to issue a weighmaster certificate to buyers who opt
32 to utilize the unattended system, provided that the system and the
33 operation of the system comply with regulations or policies issued
34 by the secretary. The name of the principal weighmaster and the
35 unique system identification number of the unattended weighing
36 system utilized shall be imprinted on the weighmaster certificate
37 and this shall satisfy the requirements of subdivision (c) of Section
38 12715. Nothing in this section impacts existing weighing and
39 ticketing systems.

(b) (1) A weighmaster described in subdivision (a) shall pay the department the following license fee for each license year as applicable to the operation, and the fees set forth in Section 12704 shall not apply:

(A) Two hundred dollars (\$200) if the weighmaster is operating at a fixed location.

(B) Seventy-five dollars (\$75) for each additional fixed location at which the weighmaster is operating.

(C) Three hundred dollars (\$300) if the weighmaster is operating at other than a fixed location.

(D) Fifty dollars (\$50) for each deputy weighmaster.

(2) Any fee imposed pursuant to this section shall not exceed the reasonable regulatory costs to the department of enforcing this section.

(c) For purposes of this section:

(1) “License year” means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(2) “Location” means a premise on which weighing, measuring, or counting devices are used.

(3) “Principal weighmaster” means the person or entity identified on the weighmaster certificate, as described in subdivision (b) of Section 12714, that may employ or designate any person to act for the weighmaster as a deputy weighmaster pursuant to Section 12710.

(4) “Unattended weighing system” means an automated system not directly under the supervision of a weighmaster that meets the approval, testing, and sealing requirements of Section 12717.

(d) A weighmaster described in subdivision (a) shall keep the same number of deputy weighmaster licensees as were licensed in the average of the last two years preceding the use of an unattended weighing system.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 68. Section 12737 of the Business and Professions Code, as added by Section 2 of Chapter 344 of the Statutes of 2012, is amended to read:

1 12737. (a) Any weighmaster weighing any vehicle moving
2 construction materials, including, but not limited to, earth, stone,
3 rock, sand, gravel, limestone, ready mixed concrete, cementitious
4 materials, recycled construction materials, or asphalt paving
5 materials may use an unattended weighing system to weigh the
6 vehicle and to issue a weighmaster certificate to buyers who opt
7 to utilize the unattended system, provided that the system and the
8 operation of the system comply with regulations or policies issued
9 by the secretary. The name of the principal weighmaster and the
10 unique system identification number of the unattended weighing
11 system utilized shall be imprinted on the weighmaster certificate
12 and this shall satisfy the requirements of subdivision (c) of Section
13 12715. Nothing in this section impacts existing weighing and
14 ticketing systems.

15 (b) (1) A weighmaster shall pay the department the following
16 license fee for each license year as applicable to the operation:

17 (A) Seventy-five dollars (\$75) if the weighmaster is operating
18 at a fixed location.

19 (B) Thirty dollars (\$30) for each additional fixed location at
20 which the weighmaster is operating.

21 (C) Two hundred dollars (\$200) if the weighmaster is operating
22 at other than a fixed location.

23 (D) Twenty dollars (\$20) for each deputy weighmaster.

24 (2) Any fee imposed pursuant to this section shall not exceed
25 the reasonable regulatory costs to the department of enforcing this
26 section.

27 (c) For purposes of this section:

28 (1) "License year" means the period of time beginning with the
29 first day of the month the weighmaster is required to be licensed
30 in this state, and ending on the date designated by the secretary
31 for expiration of the license, or yearly intervals after the first
32 renewal.

33 (2) "Location" means a premise on which weighing, measuring,
34 or counting devices are used.

35 (3) "Principal weighmaster" means the person or entity identified
36 on the weighmaster certificate, as described in subdivision (b) of
37 Section 12714, that may employ or designate any person to act for
38 the weighmaster as a deputy weighmaster pursuant to Section
39 12710.

(4) “Unattended weighing system” means an automated system not directly under the supervision of a weighmaster that meets the approval, testing, and sealing requirements of Section 12717.

(d) This section shall become operative on January 1, 2020.

SEC. 69. Section 13432 of the Business and Professions Code is amended to read:

13432. The fees provided in Section 13431 are maximum fees and may be established at a lower rate by the secretary at any time the funds derived from such assessment are more than reasonably necessary to cover the cost of administration and enforcement of this chapter, including the maintenance of a reasonable reserve fund for such purposes.

SEC. 70. Section 13433 of the Business and Professions Code is amended to read:

13433. The secretary may, by regulation, prescribe the frequency of payments of such assessments, the procedures for such payment, the procedures for refunds of payment, and penalties for late payment.

SEC. 71. Section 13434 of the Business and Professions Code is amended to read:

13434. The moneys which are received by the secretary pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be used only for the administration and enforcement of this chapter and Chapter 15 (commencing with Section 13700).

SEC. 72. Section 22352 of the Business and Professions Code is amended to read:

22352. At the time of filing the initial certificate of registration, a registrant shall pay the following fees to the county clerk:

(a) A fee of one hundred dollars (\$100).

(b) A fee to cover the actual costs of processing the completed request for live scan when submitted with the initial certificate of registration.

(c) A fee to cover the actual cost of issuing a registered process server identification card.

SEC. 73. Section 42639.1 of the Education Code is amended to read:

42639.1. The county auditor may authorize the destruction of any bill or supporting document received from a school district

1 for purposes of Section 42639 if all of the following conditions
2 are met:

3 (a) The record, paper, or document is photographed,
4 microphotographed, or reproduced on film of a type approved for
5 permanent photographic records by the National Institute of
6 Standards and Technology.

7 (b) The device used to reproduce such record, paper, or
8 document on film is one which accurately reproduces the original
9 thereof in all details.

10 (c) The photographs, microphotographs, or other reproductions
11 on film are placed in conveniently accessible files and provision
12 is made for preserving, examining, and using the same.

13 SEC. 74. Section 85239.1 of the Education Code is amended
14 to read:

15 85239.1. The county auditor may authorize the destruction of
16 any bill or supporting document received from a school district
17 for purposes of Section 85239 if all of the following conditions
18 are met:

19 (a) The record, paper, or document is photographed,
20 microphotographed, or reproduced on film of a type approved for
21 permanent photographic records by the National Institute of
22 Standards and Technology.

23 (b) The device used to reproduce such record, paper, or
24 document on film is one which accurately reproduces the original
25 thereof in all details.

26 (c) The photographs, microphotographs, or other reproductions
27 on film are placed in conveniently accessible files and provision
28 is made for preserving, examining, and using the same.

29 SEC. 75. Section 1010 of the Evidence Code is amended to
30 read:

31 1010. As used in this article, “psychotherapist” means a person
32 who is, or is reasonably believed by the patient to be:

33 (a) A person authorized to practice medicine in any state or
34 nation who devotes, or is reasonably believed by the patient to
35 devote, a substantial portion of his or her time to the practice of
36 psychiatry.

37 (b) A person licensed as a psychologist under Chapter 6.6
38 (commencing with Section 2900) of Division 2 of the Business
39 and Professions Code.

1 (c) A person licensed as a clinical social worker under Chapter
2 14 (commencing with Section 4991) of Division 2 of the Business
3 and Professions Code, when he or she is engaged in applied
4 psychotherapy of a nonmedical nature.

5 (d) A person who is serving as a school psychologist and holds
6 a credential authorizing that service issued by the state.

7 (e) A person licensed as a marriage and family therapist under
8 Chapter 13 (commencing with Section 4980) of Division 2 of the
9 Business and Professions Code.

10 (f) A person registered as a psychological assistant who is under
11 the supervision of a licensed psychologist or board certified
12 psychiatrist as required by Section 2913 of the Business and
13 Professions Code, or a person registered as an associate marriage
14 and family therapist who is under the supervision of a licensed
15 marriage and family therapist, a licensed clinical social worker, a
16 licensed psychologist, or a licensed physician and surgeon certified
17 in psychiatry, as specified in Section 4980.44 of the Business and
18 Professions Code.

19 (g) A person registered as an associate clinical social worker
20 who is under supervision as specified in Section 4996.23 of the
21 Business and Professions Code.

22 (h) A person registered with the Board of Psychology as a
23 registered psychologist who is under the supervision of a licensed
24 psychologist or board certified psychiatrist.

25 (i) A psychological intern as defined in Section 2911 of the
26 Business and Professions Code who is under the supervision of a
27 licensed psychologist or board certified psychiatrist.

28 (j) A trainee, as defined in subdivision (c) of Section 4980.03
29 of the Business and Professions Code, who is fulfilling his or her
30 supervised practicum required by subparagraph (B) of paragraph
31 (1) of subdivision (d) of Section 4980.36 of, or subdivision (c) of
32 Section 4980.37 of, the Business and Professions Code and is
33 supervised by a licensed psychologist, a board certified psychiatrist,
34 a licensed clinical social worker, a licensed marriage and family
35 therapist, or a licensed professional clinical counselor.

36 (k) A person licensed as a registered nurse pursuant to Chapter
37 6 (commencing with Section 2700) of Division 2 of the Business
38 and Professions Code, who possesses a master's degree in
39 psychiatric-mental health nursing and is listed as a

1 psychiatric-mental health nurse by the Board of Registered
2 Nursing.

3 (l) An advanced practice registered nurse who is certified as a
4 clinical nurse specialist pursuant to Article 9 (commencing with
5 Section 2838) of Chapter 6 of Division 2 of the Business and
6 Professions Code and who participates in expert clinical practice
7 in the specialty of psychiatric-mental health nursing.

8 (m) A person rendering mental health treatment or counseling
9 services as authorized pursuant to Section 6924 of the Family
10 Code.

11 (n) A person licensed as a professional clinical counselor under
12 Chapter 16 (commencing with Section 4999.10) of Division 2 of
13 the Business and Professions Code.

14 (o) A person registered as an associate professional clinical
15 counselor who is under the supervision of a licensed professional
16 clinical counselor, a licensed marriage and family therapist, a
17 licensed clinical social worker, a licensed psychologist, or a
18 licensed physician and surgeon certified in psychiatry, as specified
19 in Sections 4999.42 to 4999.46, inclusive, of the Business and
20 Professions Code.

21 (p) A clinical counselor trainee, as defined in subdivision (g)
22 of Section 4999.12 of the Business and Professions Code, who is
23 fulfilling his or her supervised practicum required by paragraph
24 (3) of subdivision (c) of Section 4999.32 of, or paragraph (3) of
25 subdivision (c) of Section 4999.33 of, the Business and Professions
26 Code, and is supervised by a licensed psychologist, a
27 board-certified psychiatrist, a licensed clinical social worker, a
28 licensed marriage and family therapist, or a licensed professional
29 clinical counselor.

30 SEC. 76. Section 424 of the Government Code is amended to
31 read:

32 424. The official colors of the State are blue and gold. The
33 specifications, references, and designations for the official colors
34 are as follows:

35 Specifications: National Institute of Standards and Technology,
36 Research Paper RP 1700.

37 International Commission on Illumination:

38 Blue: Y 0.063 x 0.204 y 0.165

39 Gold: Y 0.449 x 0.474 y 0.458

40 Munsell Renotation:

1 Blue: H V/C 7.3 PB 2.9/8.8
2 Gold: H V/C 2.0 Y 7.1/11.3
3 Munsell Book Notation:
4 Blue: H V/C 7.2 PB 2.9/9.1
5 Gold: H V/C 1 Y 7.3/11
6 References: Textile Color Card Association of New York, Inc.
7 Blue: Yale Blue, cable number 70086, Standard Color Card
8 of America, 9th edition.
9 Gold: Golden Yellow, cable number 65001, United States
10 Army Card of Official Colors for Arms and Services.
11 Designations: Inter-Society Color Council-National Bureau of
12 Standards:
13 Yale Blue: Deep purplish blue.
14 Golden Yellow: Vivid yellow.
15 SEC. 77. Section 11165.7 of the Penal Code is amended to
16 read:
17 11165.7. (a) As used in this article, “mandated reporter” is
18 defined as any of the following:
19 (1) A teacher.
20 (2) An instructional aide.
21 (3) A teacher’s aide or teacher’s assistant employed by a public
22 or private school.
23 (4) A classified employee of a public school.
24 (5) An administrative officer or supervisor of child welfare and
25 attendance, or a certificated pupil personnel employee of a public
26 or private school.
27 (6) An administrator of a public or private day camp.
28 (7) An administrator or employee of a public or private youth
29 center, youth recreation program, or youth organization.
30 (8) An administrator, board member, or employee of a public
31 or private organization whose duties require direct contact and
32 supervision of children, including a foster family agency.
33 (9) An employee of a county office of education or the State
34 Department of Education whose duties bring the employee into
35 contact with children on a regular basis.
36 (10) A licensee, an administrator, or an employee of a licensed
37 community care or child day care facility.
38 (11) A Head Start program teacher.
39 (12) A licensing worker or licensing evaluator employed by a
40 licensing agency, as defined in Section 11165.11.

1 (13) A public assistance worker.

2 (14) An employee of a child care institution, including, but not
3 limited to, foster parents, group home personnel, and personnel of
4 residential care facilities.

5 (15) A social worker, probation officer, or parole officer.

6 (16) An employee of a school district police or security
7 department.

8 (17) A person who is an administrator or presenter of, or a
9 counselor in, a child abuse prevention program in a public or
10 private school.

11 (18) A district attorney investigator, inspector, or local child
12 support agency caseworker, unless the investigator, inspector, or
13 caseworker is working with an attorney appointed pursuant to
14 Section 317 of the Welfare and Institutions Code to represent a
15 minor.

16 (19) A peace officer, as defined in Chapter 4.5 (commencing
17 with Section 830) of Title 3 of Part 2, who is not otherwise
18 described in this section.

19 (20) A firefighter, except for volunteer firefighters.

20 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
21 resident, intern, podiatrist, chiropractor, licensed nurse, dental
22 hygienist, optometrist, marriage and family therapist, clinical social
23 worker, professional clinical counselor, or any other person who
24 is currently licensed under Division 2 (commencing with Section
25 500) of the Business and Professions Code.

26 (22) An emergency medical technician I or II, paramedic, or
27 other person certified pursuant to Division 2.5 (commencing with
28 Section 1797) of the Health and Safety Code.

29 (23) A psychological assistant registered pursuant to Section
30 2913 of the Business and Professions Code.

31 (24) A marriage and family therapist trainee, as defined in
32 subdivision (c) of Section 4980.03 of the Business and Professions
33 Code.

34 (25) An unlicensed associate marriage and family therapist
35 registered under Section 4980.44 of the Business and Professions
36 Code.

37 (26) A state or county public health employee who treats a minor
38 for venereal disease or any other condition.

39 (27) A coroner.

1 (28) A medical examiner or other person who performs
2 autopsies.

3 (29) A commercial film and photographic print or image
4 processor as specified in subdivision (e) of Section 11166. As used
5 in this article, “commercial film and photographic print or image
6 processor” means a person who develops exposed photographic
7 film into negatives, slides, or prints, or who makes prints from
8 negatives or slides, or who prepares, publishes, produces, develops,
9 duplicates, or prints any representation of information, data, or an
10 image, including, but not limited to, any film, filmstrip, photograph,
11 negative, slide, photocopy, videotape, video laser disc, computer
12 hardware, computer software, computer floppy disk, data storage
13 medium, CD-ROM, computer-generated equipment, or
14 computer-generated image, for compensation. The term includes
15 any employee of that person; it does not include a person who
16 develops film or makes prints or images for a public agency.

17 (30) A child visitation monitor. As used in this article, “child
18 visitation monitor” means a person who, for financial
19 compensation, acts as a monitor of a visit between a child and
20 another person when the monitoring of that visit has been ordered
21 by a court of law.

22 (31) An animal control officer or humane society officer. For
23 the purposes of this article, the following terms have the following
24 meanings:

25 (A) “Animal control officer” means a person employed by a
26 city, county, or city and county for the purpose of enforcing animal
27 control laws or regulations.

28 (B) “Humane society officer” means a person appointed or
29 employed by a public or private entity as a humane officer who is
30 qualified pursuant to Section 14502 or 14503 of the Corporations
31 Code.

32 (32) A clergy member, as specified in subdivision (d) of Section
33 11166. As used in this article, “clergy member” means a priest,
34 minister, rabbi, religious practitioner, or similar functionary of a
35 church, temple, or recognized denomination or organization.

36 (33) Any custodian of records of a clergy member, as specified
37 in this section and subdivision (d) of Section 11166.

38 (34) An employee of any police department, county sheriff’s
39 department, county probation department, or county welfare
40 department.

1 (35) An employee or volunteer of a Court Appointed Special
2 Advocate program, as defined in Rule 5.655 of the California Rules
3 of Court.

4 (36) A custodial officer, as defined in Section 831.5.

5 (37) A person providing services to a minor child under Section
6 12300 or 12300.1 of the Welfare and Institutions Code.

7 (38) An alcohol and drug counselor. As used in this article, an
8 “alcohol and drug counselor” is a person providing counseling,
9 therapy, or other clinical services for a state licensed or certified
10 drug, alcohol, or drug and alcohol treatment program. However,
11 alcohol or drug abuse, or both alcohol and drug abuse, is not, in
12 and of itself, a sufficient basis for reporting child abuse or neglect.

13 (39) A clinical counselor trainee, as defined in subdivision (g)
14 of Section 4999.12 of the Business and Professions Code.

15 (40) An associate professional clinical counselor registered
16 under Section 4999.42 of the Business and Professions Code.

17 (41) An employee or administrator of a public or private
18 postsecondary educational institution, whose duties bring the
19 administrator or employee into contact with children on a regular
20 basis, or who supervises those whose duties bring the administrator
21 or employee into contact with children on a regular basis, as to
22 child abuse or neglect occurring on that institution’s premises or
23 at an official activity of, or program conducted by, the institution.
24 Nothing in this paragraph shall be construed as altering the
25 lawyer-client privilege as set forth in Article 3 (commencing with
26 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

27 (42) An athletic coach, athletic administrator, or athletic director
28 employed by any public or private school that provides any
29 combination of instruction for kindergarten, or grades 1 to 12,
30 inclusive.

31 (43) (A) A commercial computer technician as specified in
32 subdivision (e) of Section 11166. As used in this article,
33 “commercial computer technician” means a person who works for
34 a company that is in the business of repairing, installing, or
35 otherwise servicing a computer or computer component, including,
36 but not limited to, a computer part, device, memory storage or
37 recording mechanism, auxiliary storage recording or memory
38 capacity, or any other material relating to the operation and
39 maintenance of a computer or computer network system, for a fee.
40 An employer who provides an electronic communications service

1 or a remote computing service to the public shall be deemed to
2 comply with this article if that employer complies with Section
3 2258A of Title 18 of the United States Code.

4 (B) An employer of a commercial computer technician may
5 implement internal procedures for facilitating reporting consistent
6 with this article. These procedures may direct employees who are
7 mandated reporters under this paragraph to report materials
8 described in subdivision (e) of Section 11166 to an employee who
9 is designated by the employer to receive the reports. An employee
10 who is designated to receive reports under this subparagraph shall
11 be a commercial computer technician for purposes of this article.
12 A commercial computer technician who makes a report to the
13 designated employee pursuant to this subparagraph shall be deemed
14 to have complied with the requirements of this article and shall be
15 subject to the protections afforded to mandated reporters, including,
16 but not limited to, those protections afforded by Section 11172.

17 (44) Any athletic coach, including, but not limited to, an
18 assistant coach or a graduate assistant involved in coaching, at
19 public or private postsecondary educational institutions.

20 (45) An individual certified by a licensed foster family agency
21 as a certified family home, as defined in Section 1506 of the Health
22 and Safety Code.

23 (46) An individual approved as a resource family, as defined in
24 Section 1517 of the Health and Safety Code and Section 16519.5
25 of the Welfare and Institutions Code.

26 (b) Except as provided in paragraph (35) of subdivision (a),
27 volunteers of public or private organizations whose duties require
28 direct contact with and supervision of children are not mandated
29 reporters but are encouraged to obtain training in the identification
30 and reporting of child abuse and neglect and are further encouraged
31 to report known or suspected instances of child abuse or neglect
32 to an agency specified in Section 11165.9.

33 (c) Except as provided in subdivision (d), employers are strongly
34 encouraged to provide their employees who are mandated reporters
35 with training in the duties imposed by this article. This training
36 shall include training in child abuse and neglect identification and
37 training in child abuse and neglect reporting. Whether or not
38 employers provide their employees with training in child abuse
39 and neglect identification and reporting, the employers shall

1 provide their employees who are mandated reporters with the
2 statement required pursuant to subdivision (a) of Section 11166.5.

3 (d) Pursuant to Section 44691 of the Education Code, school
4 districts, county offices of education, state special schools and
5 diagnostic centers operated by the State Department of Education,
6 and charter schools shall annually train their employees and persons
7 working on their behalf specified in subdivision (a) in the duties
8 of mandated reporters under the child abuse reporting laws. The
9 training shall include, but not necessarily be limited to, training in
10 child abuse and neglect identification and child abuse and neglect
11 reporting.

12 (e) (1) On and after January 1, 2018, pursuant to Section
13 1596.8662 of the Health and Safety Code, a child care licensee
14 applicant shall take training in the duties of mandated reporters
15 under the child abuse reporting laws as a condition of licensure,
16 and a child care administrator or an employee of a licensed child
17 day care facility shall take training in the duties of mandated
18 reporters during the first 90 days when he or she is employed by
19 the facility.

20 (2) A person specified in paragraph (1) who becomes a licensee,
21 administrator, or employee of a licensed child day care facility
22 shall take renewal mandated reporter training every two years
23 following the date on which he or she completed the initial
24 mandated reporter training. The training shall include, but not
25 necessarily be limited to, training in child abuse and neglect
26 identification and child abuse and neglect reporting.

27 (f) Unless otherwise specifically provided, the absence of
28 training shall not excuse a mandated reporter from the duties
29 imposed by this article.

30 (g) Public and private organizations are encouraged to provide
31 their volunteers whose duties require direct contact with and
32 supervision of children with training in the identification and
33 reporting of child abuse and neglect.

34 *SEC. 78. (a) Section 33.5 of this bill incorporates amendments*
35 *to Section 7583.20 of the Business and Professions Code proposed*
36 *by both this bill and Senate Bill 547. That section of this bill shall*
37 *only become operative if (1) both bills are enacted and become*
38 *effective on or before January 1, 2018, (2) each bill amends Section*
39 *7583.20 of the Business and Professions Code, and (3) this bill is*

1 enacted after Senate Bill 547, in which case Section 33 of this bill
2 shall not become operative.

3 (b) Section 40.5 of this bill incorporates amendments to Section
4 7598.17 of the Business and Professions Code proposed by both
5 this bill and Senate Bill 547. That section of this bill shall only
6 become operative if (1) both bills are enacted and become effective
7 on or before January 1, 2018, (2) each bill amends Section 7598.17
8 of the Business and Professions Code, and (3) this bill is enacted
9 after Senate Bill 547, in which case Section 40 of this bill shall
10 not become operative.

11 (c) Section 51.5 of this bill incorporates amendments to Section
12 12304 of the Business and Professions Code proposed by both this
13 bill and Senate Bill 547. That section of this bill shall only become
14 operative if (1) both bills are enacted and become effective on or
15 before January 1, 2018, (2) each bill amends Section 12304 of the
16 Business and Professions Code, and (3) this bill is enacted after
17 Senate Bill 547, in which case Section 51 of this bill shall not
18 become operative.

19 (d) Section 52.5 of this bill incorporates amendments to Section
20 12310 of the Business and Professions Code proposed by both this
21 bill and Senate Bill 547. That section of this bill shall only become
22 operative if (1) both bills are enacted and become effective on or
23 before January 1, 2018, (2) each bill amends Section 12310 of the
24 Business and Professions Code, and (3) this bill is enacted after
25 Senate Bill 547, in which case Section 52 of this bill shall not
26 become operative.

27 (e) Section 55.5 of this bill incorporates amendments to Section
28 12500 of the Business and Professions Code proposed by both this
29 bill and Senate Bill 547. That section shall only become operative
30 if (1) both bills are enacted and become effective on or before
31 January 1, 2018, (2) each bill amends Section 12500 of the
32 Business and Professions Code, and (3) this bill is enacted after
33 Senate Bill 547, in which case Section 55 of this bill shall not
34 become operative.

35 ~~SEC. 78.~~

36 SEC. 79. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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AGENDA ITEM E

Review, Discussion, and Possible Action on Potential 2018 Legislative Proposals

1. Remove Statutory Authority for Registrar to Accept Cash Deposit in Lieu of Bond
2. Multiple-Firm License Qualifier Requirements
3. Clarify Authority to Hold Informal Citation Appeal Conferences
4. Increase the Statute of Limitations to Prosecute a Contractor for Failure to Secure Required Workers' Compensation Coverage





CONTRACTORS STATE LICENSE BOARD

POTENTIAL CSLB 2018 LEGISLATIVE PROPOSAL

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Eliminate Deposit in Lieu of Contractors Bond.

IDENTIFICATION OF PROBLEM/SUMMARY: Contractors are required by Business and Professions Code (BPC) sections 7071.5 through 7071.17 to maintain various bonds for the benefit of consumers who may be damaged as a result of defective construction or other license law violations, and for the benefit of employees who have not been paid due wages. Instead of obtaining surety bonds, BPC section 7071.12 allows a contractor to file with CSLB a number of alternatives to bonds pursuant to the “Bonds and Undertaking” articles of the Code of Civil Procedure (CCP).

One of these alternatives is a certificate of deposit issued by a bank or savings association payable to the registrar. CSLB has no jurisdiction or control over how certificates of deposit are issued by financial institutions. As a result, as long as a certificate of deposit meets basic requirements provided in California Code of Regulations (CCR) section 856, such as properly identifying the contractor and making CSLB the payee, BCP section 7071.12 requires that CSLB accept the deposit in lieu of the contractor’s bond.

To make a claim against a contractor’s deposit, the Code of Civil Procedure requires that homeowners name the contractor and the registrar in the action; to facilitate such claims, BPC section 7071.12 provides that the deposit must remain on file with CSLB for three years from the end of the license period covered by the bond.

The Licensing division believes that section 7071.12, which allows for deposits in lieu of a bond, should be repealed because in such cases, (1) the homeowner must file a civil lawsuit to claim monies from the deposit, rather than receive a good faith payment from a surety company if a bond was on file; and (2) CSLB cannot ensure that the funds are pledged to CSLB (held in “trust” for the consumer); therefore, a contractor may remove the money from the bank at his or her convenience. As CSLB is not a signatory on the accounts for which certificates are issued, banks will not provide account information to CSLB. Consequently, CSLB and the bond claimant remain unaware that an account may no longer exist unless a civil action is filed. CSLB is aware of six cases in which the contractor has removed money from the account.

Currently, 514 licensees, out of 282,952, have a deposit on file in the form of contractor, employee/worker, disciplinary, judgment, and/or qualifier bonds. The effect of repealing BPC section 7071.12 will be minimal on the licensee population. Licensees can obtain surety bonds at an annual cost that will vary depending on credit history.



This proposal will repeal BPC section 7071.12 and amend BPC section 7071.5, the CSLB bond statute, to preclude a deposit in lieu of a bond, and. Existing language in BPC section 7071.12 allows a contractor to submit a deposit in lieu of the various bonds required by Article 5 of contractors' license law, commencing with BPC section 7071.5.

PROPOSED CHANGE: The filing of a deposit in lieu of a bond is authorized by BPC section 7071.12 and Title 12, Division 8, Section 856 of the CCR. BPC section 7071.12 provides that a certificate of deposit in lieu of a bond shall be governed by CCP section 995.710, which provides that such deposits are allowed without court approval unless explicitly precluded by statute. This proposal amends the contractor bond provisions of BPC section 7071.5 to preclude the option of filing deposit alternatives and would repeal BPC section 7071.12 (which would render CCR Section 856 inoperative and require amending CCR 863).

IMPACT ON OTHER CSLB DIVISIONS: Minor/absorbable.

STAFF RECOMMENDATION: That the Enforcement Committee recommend that the full Board approve sponsoring a legislative bill that removes the authority of the registrar to accept a cash deposit in lieu of a contractor's bond.

PROPOSED LANGUAGE:

Amend BPC Section 7071.5 as follows:

7071.5.

The contractor's bond required by this article shall be executed by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant. **Notwithstanding any other provision of law, no deposits shall be given in lieu of the bonds required by this article.** The contractor's bond **required by this article** shall be for the benefit of the following:

- (a) A homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.
- (b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.
- (c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.
- (d) An employee of the licensee damaged by the licensee's failure to pay wages.
- (e) A person or entity, including a laborer described in subdivision (b) of Section 8024 of the Civil Code, to which a portion of the compensation of an employee of a licensee is paid by agreement with that employee or the collective bargaining agent of that employee, damaged as the result of the licensee's failure to pay fringe benefits for



its employees, including, but not limited to, employer payments described in Section 1773.1 of the Labor Code and regulations thereunder (without regard to whether the work was performed on a private or public work). Damage to a person or entity under this subdivision is limited to actual employer payments required to be made on behalf of employees of the licensee, as part of the overall compensation of those employees, which the licensee fails to pay.

Repeal BPC Section 7071.12:

7071.12. Repealed

- ~~(a) Instead of the bond provided by this article a deposit may be given pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure.~~
- ~~(b) If the board is notified, in writing, of a civil action against the deposit authorized under this section, the deposit or any portion thereof shall not be released for any purpose, except as determined by the court.~~
- ~~(c) If any deposit authorized under this section is insufficient to pay, in full, all claims that have been adjudicated under any action filed in accordance with this section, the sum of the deposit shall be distributed to all claimants in proportion to the amount of their respective claims.~~
- ~~(d) The following limitations periods apply to deposits in lieu of the bond required by this article:~~
- ~~1) Any action, other than an action to recover wages or fringe benefits, against a deposit given in lieu of a contractor's bond or bond of a qualifying individual filed by an active licensee shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, whichever occurs first.~~
 - ~~2) Any action, other than an action to recover wages or fringe benefits, against a deposit given in lieu of a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within three years after the last date for which a deposit given in lieu of a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first.~~
 - ~~3) A claim to recover wages or fringe benefits shall be brought within six months from the date that the wage or fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the wage or fringe benefit contributions were due.~~
- ~~(e) In any case in which a claim is filed against a deposit given in lieu of a bond by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested by Section 96.5 of the Labor Code, conduct~~



~~hearings to determine whether or not the wages or fringe benefits should be paid to the complainant. Upon a finding by the commissioner that the wages or fringe benefits should be paid to the complainant, the commissioner shall notify the registrar of the findings. The registrar shall not make payment from the deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within the period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the deposit to the complainant.~~

~~(f) Legal fees may not be charged by the board against any deposit posted pursuant to this section.~~

Amend BPC Section 7071.17 as follows:

7071.17.

- (a) Notwithstanding any other provision of law, the board shall require, as a condition precedent to accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an unsatisfied final judgment, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from the date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the bond is filed with the board. The bond required by this section is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after which the bond may be removed by submitting proof of satisfaction of all debts. The applicant may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made under penalty of perjury, as to whether there are any unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, materials suppliers, or the applicant's employees. Notwithstanding any other provision of law, if it is found that the applicant falsified the statement then the license will be retroactively suspended to the date of issuance and the license will stay suspended until the bond, satisfaction of judgment, or notarized copy of any accord applicable under this section is filed.
- (b) Notwithstanding any other provision of law, all licensees shall notify the registrar in writing of any unsatisfied final judgment imposed on the licensee. If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended on the date that the registrar is informed, or is made aware of the unsatisfied final judgment. The suspension shall not be removed until proof of



satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord is submitted to the registrar. If the licensee notifies the registrar in writing within 90 days of the imposition of any unsatisfied final judgment, the licensee shall, as a condition to the continual maintenance of the license, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to all unsatisfied judgments applicable under this section. The licensee has 90 days from date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. In lieu of filing the bond required by this section, the licensee may provide the board with a notarized copy of any accord reached with any individual holding an unsatisfied final judgment.

- (c) By operation of law, failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension of any license to which this section applies.
- (d) A license that is suspended for failure to comply with the provisions of this section can only be reinstated when proof of satisfaction of all debts is made, or when a notarized copy of an accord has been filed as set forth under this section.
- (e) This section applies only with respect to an unsatisfied final judgment that is substantially related to the construction activities of a licensee licensed under this chapter, or to the qualifications, functions, or duties of the license.
- (f) Except as otherwise provided, this section shall not apply to an applicant or licensee when the financial obligation covered by this section has been discharged in a bankruptcy proceeding.
- (g) Except as otherwise provided, the bond shall remain in full force in the amount posted until the entire debt is satisfied. If, at the time of renewal, the licensee submits proof of partial satisfaction of the financial obligations covered by this section, the board may authorize the bond to be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the bond requirement may be removed.
- (h) The board shall take the actions required by this section upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment.
- (i) For the purposes of this section, the term "judgment" also includes any final arbitration award where the time to file a petition for a trial de novo or a petition to vacate or correct the arbitration award has expired, and no petition is pending.
- (j) The qualifying person and any partner of the licensee or personnel of the licensee named as a judgment debtor in an unsatisfied final judgment shall be automatically prohibited from serving as an officer, director, associate, partner, owner, manager, qualifying individual, or other personnel of record of another licensee. This prohibition shall cause the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee to be suspended until the license of the judgment debtor is reinstated or until those same personnel of record disassociate themselves from the renewable licensed entity.
- ~~(k) For purposes of this section, a cash deposit may be submitted in lieu of the bond.~~
- (l) Notwithstanding subdivision (f), the failure of a licensee to notify the registrar of an unsatisfied final judgment in accordance with this section is cause for disciplinary action.

**Amend BPC Section 7074 as follows:****7074.**

- (a) Except as otherwise provided by this section, an application for an original license, for an additional classification, or for a change of qualifier shall become void when:
- 1) The applicant or the examinee for the applicant has failed to achieve a passing grade in the qualifying examination within 18 months after the application has been deemed acceptable by the board.
 - 2) The applicant for an original license, after having been notified to do so, fails to pay the initial license fee within 90 days from the date of the notice.
 - 3) The applicant, after having been notified to do so, fails to file within 90 days from the date of the notice any bond ~~or cash deposit~~ or other documents that may be required for issuance or granting pursuant to this chapter.
 - 4) After filing, the applicant withdraws the application.
 - 5) The applicant fails to return the application rejected by the board for insufficiency or incompleteness within 90 days from the date of original notice or rejection.
 - 6) The application is denied after disciplinary proceedings conducted in accordance with the provisions of this code.
- (b) The void date on an application may be extended up to 90 days or one examination may be rescheduled without a fee upon documented evidence by the applicant that the failure to complete the application process or to appear for an examination was due to a medical emergency or other circumstance beyond the control of the applicant.
- (c) An application voided pursuant to this section shall remain in the possession of the registrar for the period as he or she deems necessary and shall not be returned to the applicant. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

Amend BPC Section 7091 as follows:**7091.**

- (a)
- 1) A complaint against a licensee alleging commission of any patent acts or omissions that may be grounds for legal action shall be filed in writing with the registrar within four years after the act or omission alleged as the ground for the disciplinary action.
 - 2) A disciplinary action against a licensee relevant to this subdivision shall be filed or a referral to the arbitration program outlined in Section 7085 shall be referred within four years after the patent act or omission alleged as the ground for disciplinary action or arbitration or within 18 months from the date of the filing of the complaint with the registrar, whichever is later.
- (b)



- 1) A complaint against a licensee alleging commission of any latent acts or omissions that may be grounds for legal action pursuant to subdivision (a) of Section 7109 regarding structural defects, as defined by regulation, shall be filed in writing with the registrar within 10 years after the act or omission alleged as the ground for the disciplinary action.
 - 2) A disciplinary action against a licensee relevant to this subdivision shall be filed within 10 years after the latent act or omission alleged as the ground for disciplinary action or within 18 months from the date of the filing of the complaint with the registrar, whichever is later. As used in this subdivision "latent act or omission" means an act or omission that is not apparent by reasonable inspection.
- (c) A disciplinary action alleging a violation of Section 7112 shall be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.
 - (d) With respect to a licensee who has been convicted of a crime and, as a result of that conviction is subject to discipline under Section 7123, the disciplinary action shall be filed within two years after the discovery of the conviction by the registrar or by the board.
 - (e) A disciplinary action regarding an alleged breach of an express, written warranty issued by the contractor shall be filed not later than 18 months from the expiration of the warranty.
 - (f) The proceedings under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.
 - (g) Nothing in this section shall be construed to affect the liability of a surety or the period of limitations prescribed by law for the commencement of actions against a surety ~~or cash deposit.~~



CONTRACTORS STATE LICENSE BOARD

POTENTIAL CSLB 2018 LEGISLATIVE PROPOSAL

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Update the requirements for a bond of qualifying individual.

IDENTIFICATION OF PROBLEM/SUMMARY: Business and Professions Code (BPC) sections 7071.9 and 7071.10 require a qualifying individual on a state-issued contractor's license to file a \$12,500 "bond of qualifying individual" with the Contractors State License Board (CSLB), unless that individual owns more than 10 percent of the entity for which he or she acts as the qualifier.

Additionally, BPC section 7068.1 provides that a qualifying individual may qualify a second or third contractor license and be exempt from filing a bond of qualifying individual if he or she can demonstrate a 20 percent common ownership of all the entities that share the same qualifier.

To provide additional protection for consumers harmed by multiple-firm qualifiers who may not be involved in the contracting activities of the business, this proposal would require a qualifying individual to file a bond of qualifying individual, regardless of the ownership percentage of the additional firms for which he or she intends to serve as a qualifier.

CSLB staff has no way to verify the accuracy of ownership percentage claims made on an application, especially in cases of privately traded companies with no publicly verifiable assets. Staff additionally lacks the resources, information, and technical skills to analyze complex and often multi-state business structures in which contractors purport to have a stake and claim an ownership percentage. As a result, individuals qualify for multiple firms based on unsubstantiated claims.

Finally, when an individual serves as a qualifier on multiple licenses and is exempt from having a bond of qualifying individual by showing the requisite percentage of ownership, the only recourse for consumers is to file a claim against the \$15,000 contractor's bond that all licensees have must have on file. Requiring a bond of a qualifying individual for second and third licenses (added by multi-license qualifiers pursuant to BPC section 7068.1) provides additional recourse for consumers who may be harmed in an amount greater than \$15,000.

PROPOSED CHANGE: Remove subsection (1) of subdivision (a) of BPC section 7068.1, which allows a person to qualify an additional firm based on a statement about common ownership among all firms. And, make the filing of a bond of qualifying individual, pursuant to BPC sections 7071.9 and 7071.10, a prerequisite to qualify an additional firm for all parties except sole proprietors and joint ventures.



IMPACT ON OTHER CSLB DIVISIONS: The Licensing division believes that removing the ownership percentage provisions will significantly improve the time it takes to process original, replacement, and additional classification license applications by eliminating the need for technicians to research complex business relationships among various entities.

STAFF RECOMMENDATION: That the Legislative Committee recommend that the full Board approve sponsoring a legislative bill that requires licensed contractors to obtain a bond of qualifying individual for each additional license entity for which they act as the qualifier.

PROPOSED LANGUAGE: Amend Section 7068.1 as follows:

(a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control of his or her employer's or principal's construction operations to secure compliance with this chapter and the rules and regulations of the board. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless **he or she files a qualifying individual's bond as required by Sections 7071.9 and 7071.10 for each additional individual or firm qualified under this Section, and** one of the following conditions exists:

~~(1) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.~~

~~(2)~~ **(1)** The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

~~(3)~~ **(2)** With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.

(b) Notwithstanding paragraphs (1) ~~to (3), inclusive,~~ **and (2)** of subdivision (a), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

(c) The following definitions shall apply for purposes of this section:

(1) "Firm" means a partnership, a limited partnership, a corporation, a limited liability company, or any other combination or organization described in Section 7068.

(2) "Person" is limited to natural persons, notwithstanding the definition of "person" in Section 7025.

(d) The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations.

(e) Violation of this section shall constitute a cause for disciplinary action and shall be punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine of not less than three thousand dollars (\$3,000), but not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment.

**Amend Section 7071.9 as follows:**

(a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is neither the proprietor, ~~a general partner~~, nor a joint licensee, he or she shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of twelve thousand five hundred dollars (\$12,500). This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(b) Excluding the claims brought by the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10, the aggregate liability of a surety on claims brought against the bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10. However, nothing in this section shall be construed to prevent any beneficiary specified in paragraph (1) of subdivision (a) of Section 7071.10 from claiming or recovering the full measure of the bond required by this section. This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

~~(c) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if he or she owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.~~

~~(d) The qualifying individual for a limited liability company shall not be required to file or have on file a qualifying individual's bond if he or she owns at least a 10-percent membership interest in the limited liability company and certifies to that fact on a form prescribed by the registrar.~~

Amend Section 7071.10 as follows:

The qualifying individual's bond required by this article shall be executed by an admitted surety insurer in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual. The qualifying individual's bond shall not be required in addition to the contractor's bond when, as set forth under paragraph (1) of subdivision (b) of Section 7068, the individual proprietor has qualified for the license by his or her personal appearance, ~~or the qualifier is a general partner as set forth under paragraph (2) of subdivision (b) of Section 7068.~~ The qualifying individual's bond shall be for the benefit of the following persons:

(a) A homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner



shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.

(c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(d) An employee of the licensee damaged by the licensee's failure to pay wages.

(e) A person or entity, including a laborer described in subdivision (b) of Section 8024 of the Civil Code, to which a portion of the compensation of an employee of a licensee is paid by agreement with that employee or the collective bargaining agent of that employee, that is damaged as the result of the licensee's failure to pay fringe benefits for its employees including, but not limited to, employer payments described in Section 1773.1 of the Labor Code and regulations adopted thereunder (without regard to whether the work was performed on a public or private work). Damage to a person or entity under this subdivision is limited to employer payments required to be made on behalf of employees of the licensee, as part of the overall compensation of those employees, which the licensee fails to pay.



CONTRACTORS STATE LICENSE BOARD

POTENTIAL CSLB 2018 LEGISLATIVE PROPOSAL

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Clarify the registrar's authority to conduct informal citation appeal conferences.

IDENTIFICATION OF PROBLEM/SUMMARY: Since 1995, the Contractors State License Board (CSLB) has "settled" many administrative citations by hosting citation appeal conferences with CSLB staff and contractors. There has been some question about CSLB's implicit legal authority to conduct such conferences without explicit statutory authority.

Existing laws authorize the registrar to issue a citation not to exceed \$15,000 to a contractor if there is probable cause of a violation of the California contractors' license law. The statutory scheme for issuance and appeal of a citation is Business and Professions Code (BPC) sections 7028.6 through 7028.14 for unlicensed contractors, and BPC sections 7099 through 7099.6 for licensed contractors.

As such, CSLB has statutory authority to issue civil penalties within a defined financial range. But, unlike other Department of Consumer Affairs boards and bureaus (including Bureau of Security and Investigative Services, California State Board of Pharmacy, California Board of Behavioral Sciences, Bureau of Automotive Repair, and California Board of Barbering and Cosmetology), contractors' license law does not provide CSLB express authority to "settle" or modify citation amounts before they become a final order of the registrar.

However, the authority to resolve such disputes may be implied. The California Court of Appeal has said: "because settlement is administratively efficient and furthers the purpose for which the Board was created, we hold that the Board has the implied power to settle licensing disputes" (*Rich Vision Centers, Inc. v. Board of Medical Examiners*, 144 Cal. App. 3d 110, 115 (1983.))

This proposal would make CSLB's authority to host settlement conferences explicit, rather than implicit. As used currently by CSLB, the conferences grant CSLB the chance to modify a citation and allows the resolution of many citations through an informal process. This proposal would also formalize the existing citation conference process as currently conducted by CSLB.

PROPOSED CHANGE: Add BPC section 7099.8 as an additional section of law to Article 7, "Disciplinary Proceedings," to grant CSLB the authority to modify citation amounts and payment via an informal citation appeal conference.



STAFF RECOMMENDATION: That the Legislative Committee recommend that the full Board approve sponsoring a legislative bill that authorizes the registrar to hold informal citation appeal conferences.

IMPACT ON OTHER CSLB DIVISIONS: None.

PROPOSED LANGUAGE: Add BPC Section 7099.8 as follows.

- (a) In addition to requesting the hearing described within Section 7028.12 or Section 7099.5, the cited person may, within 15 working days after service of a citation, submit a written request for an informal office conference. The cited person may contest any or all aspects of the citation. The informal office conference will be conducted by the registrar or his/her designee within 30 calendar days of receiving the request.*
- (b) The registrar or his/her designee shall hold an informal office conference upon request as provided for in subdivision (a) with the cited person and their legal counsel or authorized representative if they desire representation at the informal office conference. At the conclusion of the informal office conference, the registrar or his/her designee may affirm, modify or dismiss the citation, including any civil penalty levied or order of correction issued. The registrar or his/her designee shall state in writing the reasons for their action and serve or send by certified mail, a copy of their findings and decision to the person or entity cited within 14 calendar days from the date of the informal office conference. This decision shall be deemed to be a final order with regard to the citation issued, including the civil penalty levied and/or an order of correction.*
- (c) The person or entity cited does not waive their request for a hearing to contest a citation by requesting an informal office conference after which the citation is affirmed by the registrar or his/her designee. If the citation is dismissed after the informal office conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any civil penalty levied or order of correction, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days of the issuance of the subsequent citation.*
- (d) The conference is intended to be an informal proceeding and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).*



CONTRACTORS STATE LICENSE BOARD

POTENTIAL CSLB 2018 LEGISLATIVE PROPOSAL

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Increase the statute of limitations during which to prosecute unlicensed contractors for failure to secure workers' compensation under the Labor Code.

IDENTIFICATION OF PROBLEM/SUMMARY: The period during which to prosecute a contractor for failure to secure workers' compensation is two years for licensed contractors and one year for unlicensed contractors. To make these periods consistent and to increase the number of Contractors State License Board (CSLB) criminal referrals of unlicensed contractors for failure to secure workers' compensation, this proposal would increase the period during which to prosecute unlicensed contractors to two years.

Section 802 of the California Penal Code provides that any misdemeanors not listed in that section shall be prosecuted within one year of the offense. Labor Code (LC) section 3700.5, which provides that it is a misdemeanor to fail to secure workers' compensation coverage for employees, is not listed in section 802. Therefore, the statute of limitations during which to prosecute licensed and unlicensed contractors for a criminal violation of Labor Code section 3700.5 is one year.

However, Business and Professions Code (BPC) section 7126 provides that a licensee who fails to comply with the workers' compensation provisions in the BPC shall be guilty of a misdemeanor, and the Penal Code (section 802, subdivision (d), subparagraph (2)) expressly states that violations of BPC section 7126 shall be prosecuted within two years of the offense.

This proposal is intended to provide the same statute of limitations to prosecute unlicensed and licensed contractors for violations of workers' compensation requirements.

With reactive complaints (those filed by a consumer rather than proactively opened by CSLB), two years is a sufficient period in which to refer a criminal violation of workers' compensation laws; one year is not. Because consumers routinely file their complaints with CSLB many months after the construction work subject to their complaint is completed this often leaves minimal time for CSLB to complete an investigation to allege a violation of LC section 3700.5. In addition, when making criminal referrals CSLB must allow at least an additional 60 days for a local prosecuting agency to review the referral before a case is filed.

That many months may have elapsed from the completion of the construction job to the date the average consumer files a complaint with CSLB means that a large number of



criminal cases against unlicensed contractors for workers' compensation violations cannot be filed each year. CSLB referred for prosecution 278, 303, and 458 contractors for violations of LC section 3700.5 in 2014, 2015, and 2016, respectively. Based on the number of complaints received annually, CSLB expects to substantially increase these numbers if the statute of limitations were extended as proposed.

PROPOSED CHANGE: Amend BPC section 7126 to include section 3700.5 of the Labor Code. This will extend to two years the statute of limitations for prosecuting licensed and unlicensed contractors for failure to secure workers' compensation insurance under the existing subdivision (d) subparagraph (2) of Penal Code section 802.

IMPACT ON OTHER CSLB DIVISIONS: Minor/absorbable.

STAFF RECOMMENDATION: That the Legislative Committee recommend that the full Board approve sponsoring a legislative bill to increase the statute of limitations during which to prosecute a contractor for failure to secure required workers' compensation coverage.

PROPOSED LANGUAGE: Amend Business and Professions Code Section 7126 as follows:

- (a)** Any licensee or agent or officer thereof, who violates, or omits to comply with, any of the provisions of this article, **or any of the workers' compensation provisions of Section 3700.5 of the Labor Code,** is guilty of a misdemeanor.
- (b)** **Any person not licensed in accordance with this chapter who violates, or omits to comply with, any of the workers' compensation provisions of Section 3700.5 of the Labor Code is guilty of misdemeanor.**

AGENDA ITEM F

2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Legislative Objectives





CONTRACTORS STATE LICENSE BOARD

2016-18 STRATEGIC PLAN UPDATE -- LEGISLATIVE

Legislative Objectives

ITEM	TARGET	DESCRIPTION	STATUS
3.1 Present Draft Proposal to Reorganize Contractors' State License Law (I)	May 2017	Closely examine and reorganize current law to create a more logical flow and make it more user-friendly; cleaning up and clarifying language as needed	First draft complete; undergoing staff review Proposed revised target date: June 2018
3.2 Research Increased Penalties for Predatory Business Practices, Misrepresentation of Services, or Need of Services (I)	May 2017	In conjunction with the Enforcement division, examine appropriateness of existing penalties in statute and regulation and determine if there is a need for changes	In process of generating statistics to support possible proposed regulations. Proposed revised target date: February 2018
3.3 Develop and Implement Regulatory Proposal to Formalize Experience Requirement Criteria (E)	June 2017 (to begin process)	In conjunction with the Licensing division, clarify the accepted verifiable experience requirements necessary for licensure to help ensure that qualified applicants are able to test for a license	First draft of proposed regulatory language and rulemaking documents complete and undergoing staff review. Will then be presented to Legislative and/or Licensing Committees for review and consideration of authorization for stakeholders' meeting and/or referral to full Board for preliminary approval of package to begin rulemaking process. Proposed revised target date: February 2018
3.4 Further Define Examination Waiver Criteria (I)	May 2018 (to begin process)	In conjunction with the Licensing division, thoroughly review statutory waiver authority and develop regulations to clarify examination waiver criteria, possibly including methods to prevent fraudulent submissions (see Objective 1.5)	Staff to draft proposed regulatory changes and meet with legal counsel for initial review of the language; will then follow similar Committee/Board review process for Item 3.3
3.5 Review Home Improvement Contract Provisions (I)	June 2018	Identify ways to simplify and improve clarity of provisions in Business and Professions Code section 7159	Not yet begun
3.6 Increase Fees (E)	July 2018	Increase statutory authority and limits; follow-up with regulations for future increases within statutory limits	Completed

AGENDA ITEM G

Adjournment

