

An act to repeal Section 25608.3 of the Corporations Code, to amend Sections 300, 320, 321, 351, 352, and 1252 of, to add Division 24 (commencing with Section 90000) to, and to repeal Section 371 of, the Financial Code, and to amend Sections 11041, 12895, 12980, and 12989.3 of the Government Code, relating to financial institutions.

SECURED
COPY



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25608.3 of the Corporations Code is repealed.

~~25608.3. (a) Notwithstanding Sections 25608 and 25608.1, the commissioner may set any fee under those sections at an amount below the maximum fee set forth in those sections. The commissioner shall set the fee for the upcoming fiscal year on or about June 1 of each year, except that for the six-month period of January 1, 2002, through June 30, 2002, and for the 2002–03 fiscal year, the commissioner, on January 1, 2002, shall, in a reasonable and prudent manner, reduce any fee under Sections 25608 and 25608.1 by an amount below the maximum fee set forth in those sections. For the fiscal year commencing on July 1, 2003, and thereafter, the commissioner shall establish the level of fees adequate to cover anticipated costs, including the maintenance of a prudent reserve, but not to exceed the maximum fees that may be levied under Sections 25608 and 25608.1. If, for the fiscal year commencing on July 1, 2003, or thereafter, the commissioner fails to set the fee for the upcoming fiscal year on or before June 1, then the fee for the next fiscal year shall be the fee that was in effect for the current fiscal year.~~

~~(b) In carrying out this section, the commissioner shall reduce or suspend fees to achieve no more than a 25-percent fund balance in the State Corporations Fund by June 30, 2007, and thereafter.~~

~~(c) The department shall report by February 1, 2002, to the Chair of the Joint Legislative Budget Committee and the chairs of the budget committees on the fees to be reduced and the projected revenue and fund balance impact on the State Corporations Fund through the 2006–07 fiscal year. Each year from 2002 through 2007, the department shall submit a status update report by November 1 on the fees reduced, the revenue and fund balance impact in the prior fiscal year, and the projected revenue and fund balance impact through the 2006–07 fiscal year.~~

SEC. 2. Section 300 of the Financial Code is amended to read:

300. (a) In this section:

- (1) “Business and industrial development corporation” means a corporation licensed under Division 15 (commencing with Section 31000).
- (2) “Payment instrument” has the same meaning as set forth in Section 2003.
- (3) “Stored Value” has the same meaning as set forth in subdivision (v) of Section 2003.

(b) There is in the state government, in the Business, Consumer Services, and Housing Agency, a Department of ~~Business Oversight~~, Financial Protection and Innovation, which has charge of the execution of, among other laws, the laws of this state relating to any of the following: (1) banks or trust companies or the banking or trust business; (2) savings associations or the savings association business; (3) credit unions or the credit union business; (4) persons who engage in the business of receiving money for transmission or such business; (5) issuers of stored value or such business; (6) issuers of payment instruments or the payment instrument business; (7) business and industrial development corporations or the business and industrial development corporation business; (8) insurance premium finance agencies or the insurance premium finance business; (9) persons offering or making any contract constituting bucketing; (10) persons offering or selling off-exchange commodities; (11) deferred deposit originators; (12) finance lenders and brokers; (13) residential mortgage lenders and



servicers; (14) capital access companies; (15) check sellers, bill payers, and proraters; (16) securities issuers, broker-dealers, agents, investment advisers, and investment adviser representatives; (17) mortgage loan originators employed or supervised by finance lenders or residential mortgage lenders; (18) escrow agents; (19) franchisors; ~~or~~ (20) persons holding securities as custodians on behalf of securities ~~owners~~; owners; and (21) persons offering or providing financial products or services in this state.

SEC. 3. Section 320 of the Financial Code is amended to read:

320. (a) The chief officer of the Department of ~~Business Oversight~~ Financial Protection and Innovation is the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation. The Commissioner of ~~Business Oversight~~ Financial Protection and Innovation is the head of the department with the authority and responsibility over all officers, employees, and activities in the department and, except as otherwise provided in this code and the Corporations Code, is subject to the provisions of the Government Code relating to department heads.

(b) The Commissioner of ~~Business Oversight~~ Financial Protection and Innovation shall employ legal counsel to act as the attorney for the commissioner in actions or proceedings brought by or against the commissioner under or pursuant to any law under the jurisdiction of the ~~Division of Corporations~~, Department of Financial Protection and Innovation, or in which the commissioner joins or intervenes as to a matter within the jurisdiction of the ~~Division of Corporations~~, Department of Financial Protection and Innovation, as a friend of the court or otherwise.

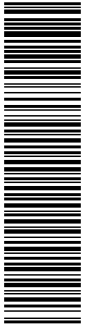
(c) The Commissioner of ~~Business Oversight~~ Financial Protection and Innovation shall employ stenographic reporters to take and transcribe the testimony in any formal hearing or investigation before the commissioner or before a person authorized by the commissioner.

(d) Sections ~~11040, 11042, and 11043~~ 11040 and 11042 of the Government Code do not apply to the ~~Division of Corporations~~. Department of Financial Protection and Innovation.

SEC. 4. Section 321 of the Financial Code is amended to read:

321. (a) In this section, “order” means any approval, consent, authorization, exemption, denial, prohibition, requirement, or other administrative action, applicable to a specific case.

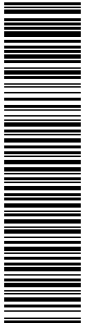
(b) ~~The office of the Commissioner of Financial Institutions and the Department of Financial Institutions are abolished. All powers, duties, responsibilities, and functions of the Commissioner of Financial Institutions and the Department of Financial Institutions are transferred to the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The Commissioner of Business Oversight and the Department of Business Oversight succeed to all of the rights and property of the Commissioner of Financial Institutions and Department of Financial Institutions, respectively; the Commissioner of Business Oversight and the Department of Business Oversight are subject to all the debts and liabilities of the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively, as if the Commissioner of Business Oversight and the Department of Business Oversight had incurred them. Any action or proceeding by or against the Commissioner of Financial Institutions or the Department of Financial Institutions may be prosecuted to judgment, which shall bind the Commissioner of Business Oversight or the Department of Business Oversight, respectively, or the Commissioner of Business~~



Oversight or the Department of Business Oversight may be proceeded against or substituted in place of the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. References in the California Constitution or in any statute or regulation to the Superintendent of Banks or the Commissioner of Financial Institutions or to the State Banking Department or the Department of Financial Institutions mean the Commissioner of Business Oversight or the Department of Business Oversight, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Business Oversight or the Department of Business Oversight, respectively.

(e) The office of the Commissioner of Corporations and the Department of Corporations are abolished. All powers, duties, responsibilities, and functions of the Commissioner of Corporations and the Department of Corporations are transferred to the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The Commissioner of Business Oversight and the Department of Business Oversight succeed to all of the rights and property of the Commissioner of Corporations and the Department of Corporations, respectively; the Commissioner of Business Oversight and the Department of Business Oversight are subject to all the debts and liabilities of the Commissioner of Corporations and the Department of Corporations, respectively, as if the Commissioner of Business Oversight and the Department of Business Oversight had incurred them. Any action or proceeding by or against the Commissioner of Corporations or the Department of Corporations may be prosecuted to judgment, which shall bind the Commissioner of Business Oversight or the Department of Business Oversight, respectively, or the Commissioner of Business Oversight or the Department of Business Oversight may be proceeded against or substituted in place of the Commissioner of Corporations or the Department of Corporations, respectively. References in the California Constitution or in any statute or regulation to the Commissioner of Corporations or the Department of Corporations mean the Commissioner of Business Oversight or the Department of Business Oversight, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Corporations or the Department of Corporations shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Business Oversight or the Department of Business Oversight, respectively.

(b) Upon the operative date of this section, as amended during the 2019–20 legislative session, the office of the Commissioner of Business Oversight and the Department of Business Oversight shall be renamed the office of the Commissioner of Financial Protection and Innovation and the Department of Financial Protection and Innovation. All powers, duties, responsibilities, and functions of the Commissioner of Business Oversight and the Department of Business Oversight shall be the powers, duties, responsibilities, and functions of the Commissioner of Financial Protection and Innovation and the Department of Financial Protection and Innovation, respectively. The Commissioner of Financial Protection and Innovation and the Department of Financial Protection and Innovation shall retain all of the rights, property, debts, and liability of the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The change of name shall not affect the validity of any action



or proceeding by or against the Commissioner of Business Oversight or the Department of Business Oversight, or a predecessor commissioner or department, nor the validity of any permit, certificate, license, or any other action taken under the name of the Commissioner of Business Oversight or the Department of Business Oversight, or a predecessor commissioner or department. All agreements entered into with, and orders and regulations issued by, the Commissioner of Business Oversight or the Department of Business Oversight, or a predecessor commissioner or department, shall continue in effect as agreements, orders, and regulations of the Commissioner of Financial Protection and Innovation or the Department of Financial Protection and Innovation. References in the California Constitution or in any statute or regulation to the Superintendent of Banks or the Commissioner of Financial Institutions or the Commissioner of Corporations or the Commissioner of Business Oversight or to the State Banking Department or the Department of Financial Institutions or the Department of Corporations or the Department of Business Oversight mean the Commissioner of Financial Protection and Innovation or the Department of Financial Protection and Innovation, respectively.

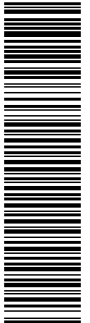
SEC. 5. Section 351 of the Financial Code is amended to read:

351. ~~(a) The chief officer of the Division of Corporations is the Senior Deputy Commissioner of Business Oversight for the Division of Corporations. The Senior Deputy Commissioner of Business Oversight for the Division of Corporations shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Corporations. The Senior Deputy Commissioner of Business Oversight for the Division of Corporations~~ Financial Protection and Innovation shall be appointed by the Governor, subject to Senate confirmation, and shall hold office at the pleasure of the Governor. ~~The Senior Deputy Commissioner of Business Oversight for the Division of Corporations~~ Financial Protection and Innovation shall receive an annual salary as fixed by the Governor.

~~(b) The chief officer of the Division of Financial Institutions is the Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions. The Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions. The Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall be appointed by the Governor, subject to Senate confirmation, and shall hold office at the pleasure of the Governor. The Senior Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall receive an annual salary as fixed by the Governor.~~

SEC. 6. Section 352 of the Financial Code is amended to read:

352. ~~(a) The commissioner may employ deputies in addition to the chief deputy, and examiners, appraisers, economists, psychologists, sociologists, statisticians, researchers, analysts, technical assistants, investigators, administrative assistants, clerks, and other employees that he or she the commissioner may need to discharge in a proper manner the duties imposed upon him or her by law. He or she~~ The commissioner shall prescribe their duties and fix their compensation in accordance with classifications made by the State Personnel Board. The commissioner may also, at those times and on those terms as may be approved by the Governor, employ those attorneys as he or she may need. attorneys.



(b) The commissioner may consider the need for technological expertise in employees throughout the department to meet the rapidly changing technological environment in consumer financial services and products.

SEC. 7. Section 371 of the Financial Code is repealed.

~~371. (a) There is in the Department of Business Oversight, the Division of Corporations, under the direction of the Senior Deputy Commissioner of Business Oversight for the Division of Corporations. The senior deputy commissioner has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Corporations.~~

~~(b) There is in the Department of Business Oversight, the Division of Financial Institutions under the direction of the Senior Deputy Commissioner for the Division of Financial Institutions. The senior deputy commissioner has charge of the execution of the laws of the state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions.~~

SEC. 8. Section 1252 of the Financial Code is amended to read:

1252. (a) Notwithstanding any other provision of this chapter, except for those persons companies approved by the commissioner prior to September 1, 2002, and for those persons who control industrial banks as of September 1, 2002, no person company may directly or indirectly, including through any merger, consolidation, or any other type of business combination, acquire control of an industrial bank, as defined in Section 111, unless the person company is the predominantly engaged in activities permitted for financial holding companies, as provided in Section 103 of the federal Gramm-Leach-Bliley Act (12 U.S.C. Sec. 1843(k)(1)), financial activities, or is a credit union, as defined in Section 165, when the industrial bank is a credit union service organization, as defined in Section 14651. Nothing in this section shall be construed to exempt a person seeking to acquire control of a bank that otherwise qualifies to do so pursuant to this section, from the requirements of Sections 1250 to 1263, inclusive. For the purposes of this section, the term “control” has the same meaning as in subdivision (b) of Section 1250.

(b) For purposes of this section, the following terms apply:

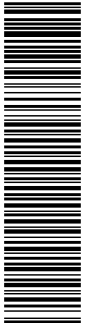
(1) “Company” has the same meaning as that term is defined in Section 1281.

(2) “Control” has the same meaning as that term is defined in subdivision (b) of Section 1250.

(3) “Predominantly engaged in financial activities” has the same meaning as in Section 242.3 of Title 12 of the Code of Federal Regulations.

(c) With respect to exclusion from restriction on activities, a company that is presumed to “control,” as described in the second paragraph of paragraph (2) of subdivision (b) of Section 1250, but who has successfully rebutted the presumption of control, as determined by the commissioner, is not required to be predominantly engaged in financial activities.

SEC. 9. Division 24 (commencing with Section 90000) is added to the Financial Code, to read:



DIVISION 24. CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW

CHAPTER 1. FINDINGS AND PURPOSE

90000. (a) The Legislature finds and declares all of the following:

(1) The lack of a single regulatory body over providers of financial products and services in California leaves California consumers vulnerable to abusive financial products and practices. California businesses are left vulnerable to unfair competition from providers that are willing to cheat and gain advantage by violating the law. Consequently, where feasible, the Legislature should enact statutory measures to protect California residents from financial abuses in the marketplace for financial products and services.

(2) Robust consumer protections enable wealth building and promote a vibrant economy. They are especially important among various populations, including, but not limited to, military service members, seniors, students, and new Californians. Unfair, deceptive, or abusive practices in the provision of financial products and services undermine the public confidence that is essential to the continued functioning of the financial system and sound extensions of credit to consumers.

(3) Technological innovation offers great promise to the more effective and efficient provision of consumer financial products and services to the population of California and also poses risks to consumers and challenges to law enforcement in addressing those risks.

(4) It is the intent of the Legislature to enact the California Consumer Financial Protection Law to strengthen consumer protections by expanding the ability of the Department of Financial Protection and Innovation to improve accountability and transparency in the California financial system, provide consumer financial education, and protect consumers from abusive financial practices.

(b) The purpose of the California Consumer Financial Protection Law shall be to promote consumer welfare, fair competition, and wealth creation in this state by doing all of the following:

(1) Promoting nondiscriminatory access to responsible, affordable credit on terms that reasonably reflect consumers' ability to repay.

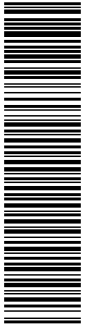
(2) Promoting nondiscriminatory access to consumer financial products and services that are understandable and not unfair, deceptive, or abusive.

(3) Protecting consumers from discrimination and unfair, deceptive, and abusive acts and practices in connection with financial practices and services.

(4) Promoting nondiscriminatory consumer-protective innovation in consumer financial products and services.

CHAPTER 2. SHORT TITLE

90001. This division shall be known, and may be cited, as the "California Consumer Financial Protection Law."



CHAPTER 3. DEFINITIONS

90002. The definitions in this section apply throughout this division, except as otherwise provided in this division or where the context clearly indicates otherwise:

(a) "Affiliate" means any person that controls, is controlled by, or is under common control with another person.

(b) "Department" means the Department of Financial Protection and Innovation.

(c) "Consumer" means an individual or an agent, trustee, or representative acting on behalf of an individual or the estate, trust, or joint trust of an individual, however denominated.

(d) "Consumer financial law" means a federal or California law that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction, or any account, product, or service related thereto, with respect to a consumer, and includes, but is not limited to, the laws enumerated in subdivision (k).

(e) "Consumer financial product or service" means any financial product or service that is described in one or more categories under any of the following:

(1) Subdivision (l) that is delivered, offered, or provided for use by consumers primarily for personal, family, or household purposes.

(2) In paragraphs (1), (3), (9), or (10) of subdivision (l) that is delivered, offered, or provided in connection with a consumer financial product or service as defined in paragraph (1).

(3) Paragraph (11) of subdivision (l).

(f) "Covered person" means any of the following:

(1) Any person that engages in offering or providing a consumer financial product or service.

(2) Any affiliate of a person described in this subdivision if the affiliate acts as a service provider to the person.

(3) Any service provider to the extent that the person engages in the offering or provision of its own consumer financial product or service.

(g) "Credit" means the right granted by a person to another person to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for those purchases.

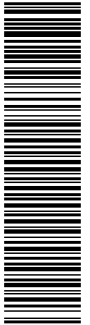
(h) "Debt" means any obligation of a person to pay another person money regardless of whether the obligation is absolute or contingent, has been reduced to judgment, is fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured and includes any obligation that gives rise to right of an equitable remedy for breach of performance if the breach gives rise to a right to payment.

(i) "Deposit-taking activity" means any of the following:

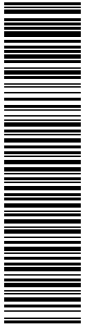
(1) The acceptance of deposits, maintenance of deposit accounts, or the provision of services related to the acceptance of deposits or the maintenance of deposit accounts.

(2) The acceptance of funds, the provision of other services related to the acceptance of funds, or the maintenance of member share accounts by a credit union.

(3) The receipt of funds or the equivalent thereof, as the department may determine by rule or order, received or held by a covered person or an agent for a covered person for the purpose of facilitating a payment or transferring funds or value of funds between a consumer and a third party.



- (j) “Commissioner” means the Commissioner of Financial Protection and Innovation.
- (k) “Enumerated consumer financial laws” means any of the following:
- (1) The California enumerated consumer financial laws are:
 - (A) Areias Credit Card Full Disclosure Act of 1986 (Title 1.3A (commencing with Section 1748.10) of Part 4 of Division 3 of the Civil Code).
 - (B) Areias-Robbins Charge Card Full Disclosure Act of 1986 (Title 1.3B (commencing with Section 1748.20) of Part 4 of Division 3 of the Civil Code).
 - (C) Automated Teller Machine Surcharge Disclosure (Division 4.5 (commencing with Section 13080)).
 - (D) Automobile Sales Finance Act (Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code).
 - (E) California Deferred Deposit Transaction Law (Division 10 (commencing with Section 23000)).
 - (F) California Financial Information Privacy Act (Division 1.4 (commencing with Section 4050)).
 - (G) California Financing Law (Division 9 (commencing with Section 22000) of this code).
 - (H) California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000)).
 - (I) Check Sellers, Bill Payers and Proraters Law (Division 3 (commencing with Section 12000)).
 - (J) Consumers Legal Remedies Act (Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code), to the extent of its application to the offering or providing of consumer financial products or services.
 - (K) Consumer Credit Reporting Agencies Act (Title 1.6 (commencing with Section 1785.1) of Part 4 of Division 3 of the Civil Code).
 - (L) Consumer Contract Awareness Act of 1990 (Title 1.86 (commencing with Section 1799.200) of Part 4 of Division 3 of the Civil Code), as to its application to the offering or providing of consumer financial products or services.
 - (M) Credit Services Act of 1984 (Title 1.6E (commencing with Section 1789.10) of Part 4 of Division 3 of the Civil Code).
 - (N) Subdivisions (e) and (i) of Section 12955 of the Government Code, as to their application to the offering or providing of consumer financial products or services, which is contained in the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12900) of Part 2.8 of Division 3 of Title 2 of the Government Code).
 - (O) Escrow Law (Division 6 (commencing with Section 17000) of this code).
 - (P) Holden Credit Denial Disclosure Act of 1976 (Title 1.6B (commencing with Section 1787.1) of Part 4 of Division 3 of the Civil Code).
 - (Q) Home Equity Loan Disclosure Act (Chapter 2a (commencing with Section 2970) of Title 14 of Part 4 of Division 3 of the Civil Code).
 - (R) Home Equity Sales Contracts (Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of the Civil Code).
 - (S) Industrial Loan Law (Article 1 (commencing with Section 18000) of Chapter 1 of Division 7 of this code), Sections 18190 to 18235, inclusive, Sections 18290 to



18296, inclusive, and Section 18300, as to its application to the offering or providing of consumer financial products or services.

(T) Investigative Consumer Reporting Agencies Act (Title 1.6A (commencing with Section 1786) of Part 4 of Division 3 of the Civil Code).

(U) Karnette Rental-Purchase Act (Title 2.96 (commencing with Section 1812.620) of Part 4 of Division 3 of the Civil Code).

(V) Money Transmission Act (Division 1.2 (commencing with Section 2000) of this code).

(W) Real Property Loans, as set forth in Sections 10240 to 10248.3, inclusive, of the Business and Professions Code.

(X) Rosenthal Fair Debt Collection Practices Act, as set forth in Sections 1788 to 1788.33, inclusive, and Sections 1812.700 to 1812.702, inclusive, of the Civil Code.

(Y) Secure and Fair Enforcement for Mortgage Licenses (Article 2.1 (commencing with Section 10166.01) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code).

(Z) Song-Beverly Credit Card Act of 1971 (Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code).

(AA) Student Loan Servicing Act (Division 12.5 (commencing with Section 28100)).

(AB) Unruh Civil Rights Act (Section 51 of the Civil Code), as to its application to the offering or providing of consumer financial products or services.

(AC) Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code).

(AD) Vehicle Leasing Act (Chapter 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of the Civil Code).

(AE) Sections 1632 to 1632.5, inclusive, of the Civil Code, but excluding paragraph (6) of subdivision (b) of Section 1632 of the Civil Code.

(AF) Sections 1748.30 to 1748.32, inclusive, of the Civil Code.

(AG) Sections 1749.45 to 1749.6, inclusive, to the extent the products regulated thereunder meet the definition of consumer financial products or services in subdivision (e) and in particular stored value as defined in subdivision (q).

(AH) Sections 1788.50 to 1788.64, inclusive, of the Civil Code.

(AI) Sections 1789.30 to 1789.38, inclusive, of the Civil Code.

(AJ) Sections 1799.5 to 1799.6, inclusive, of the Civil Code.

(AK) Sections 1799.8 to 1799.85, inclusive, of the Civil Code.

(AL) Section 1799.90 to 1799.104, inclusive, of the Civil Code.

(AM) Sections 1812.30 to 1812.35, inclusive, of the Civil Code.

(AN) Sections 1812.400 to 1812.410, inclusive, of the Civil Code.

(AO) Sections 1884 to 1923.10, inclusive, of the Civil Code as to its application to the offering or provision of consumer financial products or services.

(AP) Sections 2872 to 3081, inclusive, of the Civil Code as to its application to the offering or providing of consumer financial products or services.

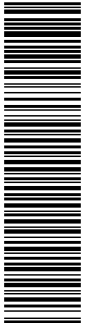
(AQ) Section 461.

(AR) Sections 4000 to 4002, inclusive.

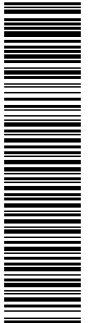
(AS) Section 4100.

(AT) Sections 4970 to 4979.8, inclusive.

(AU) Sections 4995 to 4995.6, inclusive.



- (AV) Sections 29000 to 29003, inclusive.
- (AW) Section 21000 to 21307, inclusive.
- (AX) Sections 401, 405, 408, 409.1, 409.3, 409.5, and 409.13 of the Military and Veterans Code.
- (AY) Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of the Corporations Code), solely for purposes of the functions described under Section 90005 and funding for the functions under Section 90004.
- (2) The federal enumerated consumer financial laws are as follows:
 - (A) Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. Sec. 3801 et seq.).
 - (B) Consumer Leasing Act of 1976 (15 U.S.C. Secs. 1667-1667e).
 - (C) Electronic Fund Transfer Act (15 U.S.C. Sec. 1693 et seq.).
 - (D) Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq.).
 - (E) Fair Credit Billing Act (15 U.S.C. Sec. 1666 et seq.).
 - (F) Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).
 - (G) Home Owners Protection Act of 1998 (12 U.S.C. Sec. 4901 et seq.).
 - (H) Fair Debt Collection Practices Act (15 U.S.C. Sec. 1692 et seq.).
 - (I) Subsections (b) through (f), inclusive, of Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)[(b)]–(f)).
 - (J) Sections 502 through 509 of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6802–6809) except for Section 505 (15 U.S.C. 6805) as it applies to Section 501(b) (15 U.S.C. 6801(b)).
 - (K) Home Mortgage Disclosure Act of 1975 (12 U.S.C. Sec. 2801 et seq.).
 - (L) Home Ownership and Equity Protection Act of 1994 (15 U.S.C. Sec. 1601 et seq.).
 - (M) Military Lending Act (10 U.S.C. Sec. 987).
 - (N) Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Sec. 2601 et seq.).
 - (O) Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. Sec. 5101 et seq.).
 - (P) Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.).
 - (Q) Truth in Savings Act (12 U.S.C. Sec. 4301 et seq.).
 - (R) Section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111–8) (12 U.S.C. 5538).
 - (S) Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701).
 - (T) Sections 101, 107 (except with respect to bailments), 108 (except with respect to insurance), 201 (except with respect to child custody proceedings), 207, 301, 302, 303, 305, and 305a of the Servicemembers Civil Relief Act (50 U.S.C. App. 511, 517, 518, 521, 527, 531, 532, 533, 535, and 535a).
 - (U) Other laws as Congress may add to the enumerated consumer laws in Paragraph 12 of Section 5481 of Title 12 of the United States Code.
- (I) “Financial product or service” means:
 - (1) Extending credit and servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit, other than solely extending commercial credit to a person who originates consumer credit transactions.
 - (2) Extending or brokering leases of personal or real property that are the functional equivalent of purchase finance arrangements, if all of the following:
 - (A) The lease is on a nonoperating basis.



(B) The initial term of the lease is at least 90 days.

(C) In the case of a lease involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the department.

(3) Providing real estate settlement services, except those services excluded under paragraph (12), or performing appraisals of real estate or personal property.

(4) Engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds or any financial instrument for use by or on behalf of a consumer.

(5) Selling, providing, or issuing stored value or payment instruments, except that, in the case of a sale of, or transaction to reload, stored value, only if the seller exercises substantial control over the terms or conditions of the stored value provided to the consumer where, for purposes of this paragraph, both:

(A) A seller shall not be found to exercise substantial control over the terms or conditions of the stored value if the seller is not a party to the contract with the consumer for the stored value product, and another person is principally responsible for establishing the terms or conditions of the stored value.

(B) Advertising the nonfinancial goods or services of the seller on the stored value card or device is not in itself an exercise of substantial control over the terms or conditions.

(6) Providing check cashing, check collection, or check guaranty services.

(7) Providing payments or other financial data processing products or services to a consumer by any technological means, including processing or storing financial or banking data for any payment instrument, or through any payment system or networks used for processing payment data, including payments made through an online banking system or mobile telecommunications network, except that a person shall not be deemed to be a covered person with respect to financial data processing solely because the person either:

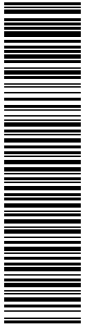
(A) Is a merchant, retailer, or seller of any nonfinancial good or service who engages in financial data processing by transmitting or storing payment data about a consumer exclusively for purpose of initiating payment instructions by the consumer to pay that person for the purchase of, or to complete a commercial transaction for, the nonfinancial good or service sold directly by that person to the consumer.

(B) Provides access to a host server to a person for purposes of enabling that person to establish and maintain a website.

(8) Providing financial advisory services other than services relating to securities provided by a person regulated by the Securities Exchange Commission or a person regulated by a state securities commission, but only to the extent that such person acts in a regulated capacity, to consumers on individual financial matters or relating to proprietary financial products or services other than by publishing any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, including publishing market data, news, or data analytics or investment information or recommendations that are not tailored to the individual needs of a particular consumer, including both of the following:

(A) Providing credit counseling to any consumer.

(B) Providing services to assist a consumer with debt management or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure.



(9) Collecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service, except to the extent that:

(A) A person does all of the following:

(i) Collects, analyzes, or maintains information that relates solely to the transactions between a consumer and that person.

(ii) Provides information to an affiliate of the person, as described in subdivision (a).

(iii) Provides information that is used or expected to be used solely in any decision regarding the offering or provision of a product or service that is not a consumer financial product or service.

(B) The information described in clause (i) of subparagraph (A) is not used by the person or affiliate in connection with any decision regarding the offering or provision of a consumer financial product or service to the consumer, other than credit described in subparagraph (A) of paragraph (1) of subdivision (e) of Section 90003.

(10) Collecting debt related to any consumer financial product or service.

(11) Directly or indirectly brokering the offer or sale of a franchise in this state on behalf of another.

(12) Offers another financial product or service as may be defined by the department, by regulation, for purposes of this division, if the department finds that the financial product or service is either:

(A) Entered into or conducted as a subterfuge or with a purpose to evade any consumer financial law.

(B) Permissible for a bank or for a financial holding company to offer or to provide under any provision of law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers, excluding, however, solely from the department's authority to define additional financial products and services under this subparagraph and not the exercise of any other authority it may have, the following activities provided to a covered person:

(i) Providing information products or services to a covered person for identity authentication.

(ii) Providing information products or services for fraud or identify theft detection, prevention, or investigation.

(iii) Providing document retrieval or delivery services.

(iv) Providing public records information retrieval.

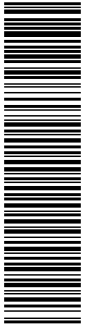
(v) Providing information products or services for anti-money laundering activities.

(13) The term "financial product or service" does not include either of the following:

(A) The business of insurance, as regulated by the Department of Insurance.

(B) The provision, by a person, of electronic data transmission, routing, intermediate or transient storage, or connections to a telecommunications system or network, not including a person that provides those electronic conduit services if, when providing those services, the person does any of the following:

(i) Selects or modifies the content of the electronic data.



(ii) Transmits, routes, stores, or provides connections for electronic data, including financial data, in a manner that the financial data is differentiated from other types of data of the same form that the person transmits, routes, or stores, or with respect to which, provides connections.

(iii) Is a payee, payor, correspondent, or similar party to a payment transaction with a consumer.

(m) "Payment instrument" means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of funds, or monetary value, other than currency.

(n) "Person" means an individual, corporation, business trust, estate, trust, partnership, proprietorship, syndicate, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or joint stock company, or any other organization or legal or commercial entity.

(o) "Service member" means any active member of the United States Armed Forces and any member of the National Guard or Reserves, and any member of the California active militia.

(p) (1) "Service provider" means any person that provides a material service to a covered person in connection with the offering or provision by that covered person of a consumer financial product or service, including a person that either:

(A) Participates in designing, operating, or maintaining the consumer financial product or service.

(B) Processes transactions relating to the consumer financial product or service, other than unknowingly or incidentally transmitting or processing financial data in a manner that the data is undifferentiated from other types of data of the same form as the person transmits or processes.

(2) The term "service provider" does not include a person solely by virtue of that person offering or providing to a covered person either:

(A) A support service of a type provided to businesses generally or a similar ministerial service.

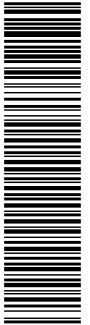
(B) Time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media.

(q) (1) "Stored value" means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically, and includes a prepaid debit card or product, or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.

(2) Notwithstanding paragraph (1), the term "stored value" does not include a special purpose card or certificate, which shall be defined for purposes of this paragraph as funds or monetary value represented in any electronic format, whether or not specially encrypted, that is all of the following:

(A) Issued by a merchant, retailer, or other seller of nonfinancial goods or services.

(B) Redeemable only for transactions with the merchant, retailer, or seller of nonfinancial goods or services or with an affiliate of such person, which affiliate itself is a merchant, retailer, or seller of nonfinancial goods or services.



(C) Issued in a specified amount that, except in the case of a card or product used solely for telephone services, may not be increased or reloaded.

(D) Purchased on a prepaid basis in exchange for payment.

(E) Honored upon presentation to the merchant, retailer, or seller of nonfinancial goods or services or an affiliate of such person, which affiliate itself is a merchant, retailer, or seller of nonfinancial goods or services, only for any nonfinancial goods or services

(r) These definitions shall be interpreted with reference to, and, wherever reasonable, construed as consistent with, the definitions in Section 1002 of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (12 U.S.C. § 5481). Any inconsistency shall be resolved in favor of greater protections to the consumer and more expansive coverage.

CHAPTER 4. ADMINISTRATION

90003. (a) The department shall regulate the offering and provision of consumer financial products or services under California consumer financial laws and shall exercise oversight and enforcement authority under California consumer financial laws. To the extent permissible under the federal consumer financial laws, the department shall exercise oversight and enforcement under the federal consumer financial laws.

(b) In addition to existing functions, powers, and duties, the department shall have all of the following functions, powers, and duties in carrying out its responsibilities under this law:

(1) To implement the California consumer financial laws, and to the extent permissible under federal law, the federal consumer financial laws, through rules, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions.

(2) To bring administrative and civil actions, and to prosecute those civil actions before state and federal courts.

(3) To hold hearings and issue publications, results of inquiries and research, and reports that may aid in effectuating the purposes of this law.

(4) To perform such other functions as may be authorized or required by law.

(c) The department shall employ legal counsel to act as the attorney for the commissioner in actions or proceedings brought by or against the commissioner under or pursuant to this law or in which the commissioner joins or intervenes as a matter within the jurisdiction of this law, as a friend of the court or otherwise. Sections 11040 and 11042 of the Government Code do not apply to this law.

(d) (1) The commissioner may investigate, research, analyze, and report on markets for consumer financial products or services.

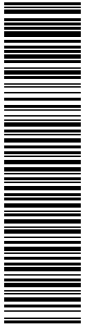
(2) The commissioner may develop and implement outreach and education programs to underserved consumers and communities.

(3) The commissioner may develop and implement initiatives to promote innovation, competition, and consumer access within financial services.

(e) The following are excluded from the department's authority:

(1) Merchants, retailers, and other sellers of nonfinancial goods and services, subject to the following conditions:

(A) The department may not exercise authority under this division as to:



(i) The bona fide extension of credit by a merchant, retailer, or seller of nonfinancial goods and services to a consumer for the acquisition of a nonfinancial good or service, provided that all of the following conditions are met:

(I) The credit extended does not significantly exceed the fair market value of the nonfinancial good or service provided.

(II) The merchant, retailer, or seller does not sell or otherwise assign the debt, except as to the sale of delinquent debt for the purposes of collection.

(III) The merchant, retailer, or seller of nonfinancial goods and services does not regularly extend credit, as defined under the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.) and regulations issued thereunder.

(ii) The collection or sale of delinquent debt arising from credit described in clause (i).

(B) Nothing in subparagraph (A) shall limit the department's authority to the extent that either:

(i) The department finds the sale of the nonfinancial good or service is done as a subterfuge, so as to evade or circumvent the provisions of this title.

(ii) The merchant, retailer, or seller of nonfinancial credit is subject to any enumerated consumer financial law.

(2) Licensees, subject to the following:

(A) The department may not exercise authority under this division as to:

(i) Bureau of Real Estate Appraiser licensees.

(ii) California Board of Accountancy licensees.

(iii) Department of Insurance licensees.

(iv) Department of Real Estate licensees.

(v) State Bar of California licensees.

(B) The department may exercise its authorities over the persons described in subparagraph (A) to the extent a licensee is subject to any of the following:

(i) Engaged in the offering or provision of consumer financial products or services.

(ii) A service provider to a covered person.

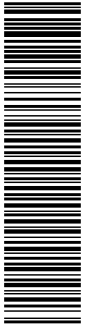
(iii) Otherwise subject to any enumerated consumer financial law.

(C) Notwithstanding subparagraph (B), the department shall not exercise any licensing authority or supervisory and enforcement powers as to any matters other than the offering and provisioning of consumer financial products and services. The agencies referenced in subparagraph (A) retain all licensing authority over their licensees and all supervisory and enforcement powers as to all matters, including the offering and provisioning of consumer financial products and services.

(3) In regard to retention of information gathering and subpoena authorities, nothing in this subdivision shall limit the department's authority order to carry out the responsibilities and functions of this law, including to gather information and impose related requirements.

90004. With respect to funds under this division:

(a) All moneys collected or received by the commissioner under this division shall be deposited with the State Treasurer to the credit of the Financial Protection Fund. All moneys in the Financial Protection Fund shall be available, upon appropriation by the Legislature, to the commissioner for purposes of administering this division.



(b) The department may set and collect an annual registration fee for each entity required to register under subdivision (d) of Section 90006, which may be scaled based on the size or market participation of the entity. The annual registration fee shall be limited to the reasonable regulatory costs under this division incident to issuing registrations and performing investigations, inspections, examinations and audits; and the administrative enforcement and adjudication of this division with respect to registrants. The regulatory costs for the administrative enforcement of this division are for the purposes of protecting consumers against unfair, deceptive, or abusive acts or practices in connection with any transaction involving the provision of financial products and services in this state; protecting registrants against unfair competition; improving accountability and transparency; and ensuring equitable enforcement of consumer financial laws.

(1) The cost of every inspection and examination of a covered person conducted under the authority of this law shall be paid to the department by the covered person examined and the department may maintain an action for recovery of those costs in any court of competent jurisdiction. In determining the cost of any inspection or examination, the department may use the estimated average hourly cost, including overhead, for all persons performing inspections or examinations of licensees or other persons subject to this division for the fiscal year.

(2) Nothing in this subdivision shall alter or supersede the requirements for the cost of an examination conducted under the authority of any other law administered by the commissioner.

(c) (1) Notwithstanding any other law, the commissioner shall use funds obtained through the enforcement of any of the laws administered by the commissioner, including moneys received through fines, penalties, settlements, judgements, or otherwise, for the administration of this division, whether those funds were received before or after the enactment of this division.

(2) In addition to funds obtained through the enforcement of any of the laws administered by the commissioner, the commissioner may use funds for the administration of this division that are obtained, awarded, delegated, or otherwise attributed to the department through the enforcement of any other consumer, borrower, or investor protection law, regardless of whether the action is brought directly by the commissioner or by another agency or official.

(3) Funds designated as restitution or other ancillary relief to an injured person shall not be subject to this subdivision.

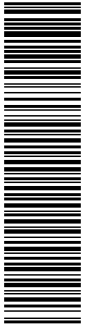
90005. (a) The department shall establish reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person.

(b) A covered person shall provide a timely response, in writing where appropriate, to the department concerning a consumer complaint or inquiry, including all of the following:

(1) Steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer.

(2) Responses received by the covered person from the consumer.

(3) Follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.



(c) With respect to the provision of information to consumers by covered persons, the following shall apply:

(1) A covered person shall, in a timely manner, comply with a consumer request for information in the control or possession of that covered person concerning the consumer financial product or service that the consumer obtained from that covered person, including supporting written documentation, concerning the account of the consumer.

(2) Notwithstanding paragraph (1), a covered person may not be required by this section to make available to the consumer any of the following information:

(A) Confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors.

(B) Information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting or making any report regarding other unlawful or potentially unlawful conduct.

(C) Information required to be kept confidential by any other provision of law.

(D) Nonpublic or confidential information, including confidential supervisory information.

(d) For purposes of this section only, the following terms apply:

(1) "Covered persons" means both "covered persons" as defined in subdivision (f) of Section 90002, and other persons subject to the department's jurisdiction.

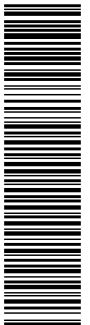
(2) "Consumer financial product or service" means both "consumer financial product or service" as defined in subdivision (e) of Section 90002 and any other product or service subject to the department's jurisdiction.

90006. (a) The commissioner has the authority to adopt, promulgate, amend, and rescind regulations interpreting and implementing the enumerated California consumer financial laws and to prevent evasions thereof. For purposes of regulations and orders issued under this division, the commissioner may classify persons, transactions, and other matters within the department's jurisdiction and may prescribe different regulations or orders for different classes.

(b) The department shall conduct a review of existing rules and, as necessary, prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under this law. The rules shall have the object of ensuring that in collecting information from any person, publicly releasing information held by the department, or requiring covered persons to publicly report information, the department shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under any provision of law, including, but not limited to, the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), is not made public under this division.

(c) The department may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

(d) The department may prescribe rules regarding registration requirements applicable to a covered person, including requiring a filing be made under oath, and requiring the payment of registration fees. The department may adopt, amend, or repeal



these rules by emergency regulation, as necessary for the effective administration of this law, and may require registration through the Nationwide Multistate Licensing System and Registry.

(e) In regard to oversight, the following procedures apply:

(1) The department shall prescribe rules to facilitate oversight of covered persons and assessment and detection of risks to consumers.

(2) The department may require a covered person to generate, provide, or retain records for the purposes of facilitating oversight of those persons and assessing and detecting risks to consumers.

(3) The department may prescribe rules regarding a covered person to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.

(f) In regard to the collection of information, the following procedures apply:

(1) In conducting any monitoring, regulatory activity, or assessment required by this section, the department shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.

(2) The department may require covered persons and service providers participating in consumer financial services markets to file with the department, under oath or otherwise, in the form and within a reasonable period of time as the department may prescribe by rule or order, annual or special reports, or answers in writing to specific questions, as necessary for the department to fulfill its monitoring, assessment, and reporting responsibilities.

(g) If the department and another agency have joint authority under the enumerated California consumer financial laws, the department shall consult with that agency before promulgating regulations. The department shall conduct this consultation a minimum of 30 days before the issuance of a notice of proposed rulemaking and a minimum of 30 days before the issuance of any final rule.

(h) An assessment of significant rules shall be performed in accordance with the following:

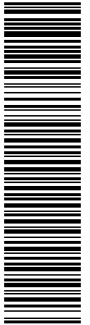
(1) The department shall conduct an assessment of each significant rule or order adopted by the department under consumer financial law. The assessment shall address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this division and any specific goals stated by the department in the rule or any accompanying regulatory text. The assessment shall reflect, to the extent practicable and feasible, available evidence, including any data that the department reasonably may collect. As part of its assessment, the department shall invite public comment on recommendations for modifying, expanding, or eliminating the significant rule or order.

(2) The result of the assessment shall be the basis to modify, expand, or eliminate the significant rule or order.

(3) The department shall conduct a reassessment of existing regulations on a periodic basis, as established by the commissioner.

(i) The following procedures apply to regulatory improvements:

(1) To clarify the applicability of state credit cost limitations, including rate and fee caps, to the offering and provision of consumer financial products and services by



covered persons, the department may interpret and implement, including to prevent evasion thereof, all California credit cost provisions as to their applicability to consumer financial products and services. Nothing in this paragraph shall be construed to give the department authority to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, except as otherwise provided for by statute.

(2) Notwithstanding any limitations on its authorities, the department, by regulation, may define unfair, deceptive, and abusive acts and practices in connection with the offering or provision of financial products and services by covered persons to small businesses, nonprofits, and family farms. The rulemaking may also include data collection and reporting on lending by covered persons to those entities.

(3) The department may prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Rules under this section may include requirements for the purpose of preventing those acts or practices.

(A) The department shall interpret “unfair” and “deceptive” consistent with Section 17200 of the Business and Professions Code and the case law thereunder.

(B) The department shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice either:

(i) Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service.

(ii) Takes unreasonable advantage in regards to any of the following:

(I) A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service.

(II) The inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service.

(III) The reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

CHAPTER 5. OVERSIGHT

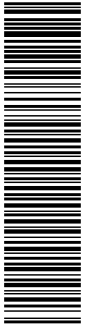
90007. (a) Notwithstanding any other provision of this division, this section shall apply to any covered person who meets any of the following conditions:

(1) Offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with those loans.

(2) Is a licensee of the department or a registrant that is required to be registered by statute or by rule of the department.

(3) The department has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for the covered person to respond, that the covered person is engaging, or has engaged, in conduct that poses risks to consumers or small businesses with regard to the offering or provision of financial products or services.

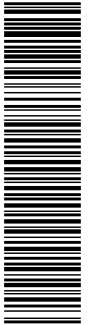
(4) Offers or provides to a consumer any private education loan, as defined in Section 140 of the federal Truth in Lending Act (15 U.S.C. Sec. 1650).



- (5) Offers or provides to a consumer a payday loan.
- (6) Is a service provider to a person described in paragraphs (1) to (5).
- (b) With regard to oversight:
 - (1) The department shall require reports and conduct examinations on a periodic basis of persons described in subdivision (a) for purposes of all of the following:
 - (A) Assessing compliance with the requirements of consumer financial laws.
 - (B) Obtaining information about the activities and compliance systems or procedures of that person.
 - (C) Detecting and assessing risks to consumers and to markets for consumer financial products and services.
 - (D) The commissioner may waive the requirement of this paragraph for any persons licensed or registered by the department or another agency upon a finding that the report or examination is largely duplicative or otherwise unnecessary for the protection of consumers.
 - (2) The department shall exercise its authority under paragraph (1) in a manner designed to ensure that the exercise, with respect to persons described in subdivision (a), is based on the assessment by the department of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable, the following:
 - (A) The asset size of the covered person.
 - (B) The volume of transactions involving consumer financial products or services in which the covered person engages.
 - (C) The risks to consumers created by the provision of the consumer financial products or services.
 - (D) The extent to which the institutions are subject to oversight by other state or federal authorities for consumer protection.
 - (E) Any other factors that the department determines to be relevant to a class of covered persons.
 - (3) As to the use of existing reports, the department shall, to the fullest extent possible, use both:
 - (A) Reports pertaining to persons described in subdivision (a) that have been provided or required to have been provided to a federal or state agency.
 - (B) Information that has been reported publicly.
 - (4) Nothing in this division may be construed as limiting the authority of the commissioner to require reports from persons described in subdivision (a), as permitted under paragraph (1), regarding information owned or under the control of the person, regardless of whether the information is maintained, stored, or processed by another person.

CHAPTER 6. PROHIBITED ACTS AND ENFORCEMENT POWERS AND DUTIES

90008. (a) A covered person or service provider shall not do any of the following:
- (1) Engage, have engaged, or propose to engage in any unfair, deceptive, or abusive act or practice with respect to consumer financial products or services.



(2) Offer or provide to a consumer any financial product or service not in conformity with any consumer financial law, or otherwise commit any act or omission in violation of a consumer financial law.

(3) Fail or refuse, as required by a consumer financial law, any rule or order issued by the department thereunder to do any of the following:

(A) Permit access to or copying of records.

(B) Establish or maintain records.

(C) Make reports or provide information to the department.

(b) For any person who knowingly or recklessly provides substantial assistance to a covered person or service provider in violation of subdivision (a) or any rule or order issued thereunder, and notwithstanding any provision of this division, the provider of that substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom that assistance is provided.

(c) Notwithstanding subdivision (b), a person shall not be held to have violated paragraph (1) of subdivision (a) solely by virtue of providing or selling time or space to a covered person or service provider placing an advertisement.

90009. (a) The commissioner and the department shall have the following investigatory and subpoena powers:

(1) The department or, if appropriate, a department investigator, may engage in joint investigations and requests for information.

(2) With respect to the investigatory and subpoena powers of the commissioner and the department, the following shall apply:

(A) The commissioner has the discretion to make public or private investigations within or outside of this state as the commissioner deems necessary to determine whether a person has violated or is about to violate any provision of this division, any rule or order issued pursuant to this division, to aid in the enforcement of this division, or in the prescribing of rules and forms under this division. The department may issue subpoenas for the attendance and testimony of witnesses, compel their attendance and administer oaths, and require the production of relevant papers, books, documents, or other material relevant to any inquiry under this division. These powers shall be in addition to those set forth in Sections 11180 to 11181, inclusive, of the Government Code. The subpoena may further require the person to:

(i) Produce documentary material for inspection and copying or reproduction in the form or medium requested by the department.

(ii) File written reports or answers to questions.

(B) A subpoena issued under this section may be served in accordance Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

90010. With respect to the enforcement powers of the commissioner and the department under this division, the following apply:

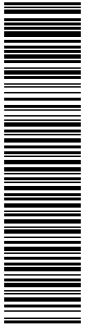
(a) The department may take any action authorized by this law against a covered person or service provider who engages, has engaged, or proposes to engage in unfair, deceptive, or abusive practices with respect to consumer financial products or services.

(b) Relief under this section may include, but is not limited to, any of the following:

(1) Rescission or reformation of contracts.

(2) Refund of moneys or return of real property.

(3) Restitution.



- (4) Disgorgement or compensation for unjust enrichment, with any disgorged amounts returned to the affected consumers, to the extent practicable.
- (5) Payment of damages or other monetary relief.
- (6) Public notification regarding the violation, including the costs of notification.
- (7) Limits on the activities or functions of the person.
- (8) Monetary penalties, as set forth more fully in paragraph (1) of subdivision (c).

(c) In any civil or administrative action brought pursuant to this division, the following penalties shall apply:

(1) Any person that violates, through any act or omission, any provision of this division shall forfeit and pay a penalty pursuant to this subdivision.

(A) The penalty amounts are as follows:

(i) For any First Tier violation of this division, rule or final order, or condition imposed in writing by the department, a penalty may not exceed the greater of either five thousand dollars (\$5,000) for each day during which the violation or failure to pay continues, or two thousand five hundred dollars (\$2,500) for each act or omission in violation.

(ii) Notwithstanding clause (i), for any Second Tier reckless violation by a person of this division, rule or final order, or condition imposed by the department, a penalty may not exceed the greater of twenty-five thousand dollars (\$25,000) for each day during which the violation continues, or ten thousand dollars (\$10,000) for each act or omission in violation.

(iii) Notwithstanding clause (i) or (ii), for any Third Tier knowing violation, by a person of this division, rule or final order, or condition imposed by the department, a penalty may not exceed the lesser of 1 percent of the person's total assets, one million dollars (\$1,000,000) for each day during which the violation continues, or twenty-five thousand dollars (\$25,000) for each act or omission in violation.

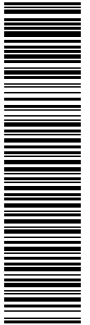
(B) In determining the amount of any penalty assessed under this division, the department shall take into account mitigating factors and the appropriateness of the penalty with respect to all of the following:

- (i) The amount of financial resources of the person charged.
- (ii) The good faith of the person charged.
- (iii) The gravity of the violation.
- (iv) The severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided.
- (v) The history of previous violations.
- (vi) Other matters as justice may require.

(C) The department may compromise, modify, or remit any penalty that may be assessed or has already been assessed.

90011. The department may bring a civil action in accordance with the following:

(a) If a person violates any provision of this division, rule or final order, or condition imposed in writing by the department, the department may bring an action in the name of the People of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other



designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate. A receiver, monitor, conservator, or other designated fiduciary or officer of the court appointed by the superior court pursuant to this section may, with the approval of the court, exercise any or all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court, by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief, including, but not limited to, those listed in subdivision (b) of Section 90010 and a claim for penalties as stated in subdivision (c) of Section 90010. The court shall have jurisdiction to award additional relief.

(c) In any action brought by the department, the department may recover its costs in connection with prosecuting the action if the department is the prevailing party in the action.

(d) This section shall not be construed as authorizing the imposition of exemplary or punitive damages.

90012. The following limitations apply to actions brought under this division:

(a) Except as otherwise permitted by law or equity, including provisions under any consumer financial law, no civil action may be brought under this division more than four years after the date of discovery of the violation to which an action relates.

(b) In any action arising solely under a California or federal enumerated consumer financial law, both:

(1) The limitations period under that consumer financial law shall apply, and not the period under subdivision (a).

(2) The department may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.

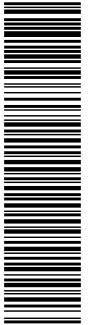
90013. (a) The department may conduct hearings and adjudication proceedings with respect to any person in order to ensure or enforce compliance with both of the following:

(1) The provisions of this division, including any rule, final order, or condition imposed by the department, under this division.

(2) Any other law that the department is authorized to enforce, including an enumerated consumer financial law, and any regulations or order prescribed thereunder, unless that law specifically limits the department from conducting a hearing or adjudication proceeding and only to the extent of that limitation.

(b) All hearings provided for in this division shall be conducted in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all the powers granted therein.

(c) After notice and an opportunity to be heard, the commissioner may, by order, assess penalties under subdivision (c) of Section 90010.



(d) (1) If, in the opinion of the department, any person engages, has engaged, or proposes to engage in any activity prohibited by Section 90008, or an activity, act, practice, or course of business that violates a law, rule, order, or any condition imposed in writing on the person by the department, the department may issue an order directing the person to desist and refrain from engaging in the activity, act, practice, or course of business.

(2) If that person fails to file a written request for a hearing within 30 days from the date of service of the order, the order shall be deemed a final order of the commissioner.

(e) If any person engages, has engaged, or proposes to engage in any activity prohibited by Section 90008, or an activity, act, practice, or course of business that violates a law, rule, order, or any condition imposed in writing on the person by the department, with respect to consumer financial products, the department may include in any administrative action authorized under Section 90013 a claim for ancillary relief as set forth in subdivision (b) of Section 90010. The court shall have jurisdiction to award additional relief.

(f) If, in the opinion of the department, any covered person or service provider is engaging, has engaged, or proposes to engage in an activity, act, practice, or course of business that violates a law, rule, order, or any condition imposed in writing on the person by the department, the department may, after notice and an opportunity for a hearing, suspend or revoke the license or registration of the covered person or service provider.

(g) (1) If the desist and refrain order served specifies, on the basis of particular facts and circumstances, that the books and records of a covered person or service provider are so incomplete or inaccurate that the department is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the department may issue a temporary order requiring either:

(A) The cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records.

(B) Affirmative action to restore the books or records to a complete and accurate state, until the completion of the proceedings.

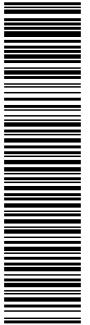
(2) Any temporary order issued shall both:

(A) Become effective upon service.

(B) Unless set aside, limited, or suspended by a court in proceedings, shall remain in effect and enforceable until the earlier of (i) the completion of the proceeding initiated in connection with the desist and refrain order; or (ii) the date the department determines, by examination or otherwise, that the books and records of the covered person or service provider are accurate and reflect the financial condition thereof.

(h) (1) The department may, in its discretion, apply to the superior court within the county in which the principal office or place of business of the person is located, for the enforcement of any effective and outstanding order issued under this section, and that court shall have jurisdiction and power to order and require compliance herewith.

(2) Except as otherwise provided in this subdivision, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order.



90014. In regard to cooperation with the Attorney General and other agencies, the following provisions apply:

(a) The department may enter into an agreement with the Attorney General with respect to civil actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subdivision (a) of Section 90007, including procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any consumer financial law. An agreement under this subdivision shall include provisions to ensure that parallel investigations and proceedings involving the consumer financial laws are conducted in a manner that avoids conflicts and does not impede the ability of the Attorney General to prosecute violations of criminal law.

(b) If the department obtains evidence that any person has engaged in conduct that may constitute a violation of criminal law, the department shall transmit that evidence to the Attorney General, who may institute criminal proceedings under appropriate law. Nothing in this section affects any other authority of the department to disclose information.

(c) Nothing in this section shall be construed to limit the authority of the department under this division, including the authority to interpret consumer financial law.

90015. (a) In addition to the prohibitions contained in Section 1102.5 of the Labor Code, no covered person or service provider shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that the employee or representative, whether at the initiative of the employee or in the ordinary course of the duties of the employee, or any person acting pursuant to a request of the employee, has either:

(1) Filed or instituted, or caused to be filed or instituted, any proceeding under any consumer financial law.

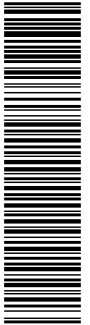
(2) Objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee or other such person reasonably believed to be in violation of any law, rule, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the department.

(b) For the purposes of this section, the term “covered employee” means any individual performing tasks related to the offering or provision of a consumer financial product or service.

(c) A person who believes that they have been terminated or otherwise discriminated against by any person in violation of subdivision (a) shall have all remedies available under Section 1102.5 of the Labor Code, subject to the restrictions set forth in that section and the implementing regulations.

CHAPTER 7. ANNUAL REPORT

90016. The commissioner shall prepare and publish on the department’s internet website an annual report detailing actions taken during the prior year under this law. The report shall include, but not be limited to, information on actions taken with respect to rulemaking, enforcement, oversight, consumer complaints and resolutions, education, and research. The report may include recommendations, including those intended to



result in improved oversight, greater transparency, or increased availability of beneficial financial products and services in the marketplace.

CHAPTER 8. MISCELLANEOUS

90017. (a) The provisions of this division shall be liberally construed to effectuate its purposes.

(b) The provisions of this act are severable. If any provision of this division, or amendments to it, or regulations promulgated under it, or under such amendments, is held invalid, illegal, or unenforceable, then that invalidity, illegality, or unenforceability shall not affect other provisions, amendments, or regulations that can be given effect without the invalid, illegal, or unenforceable provision, amendment, or regulation. Any invalidity, illegality, or unenforceability shall be construed as narrowly as possible and shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved.

90018. Regulations of the commissioner adopted to implement this division may be adopted as emergency regulations. Upon receipt of the regulations, the Office of Administrative Law shall file the regulations with the Secretary of State for immediate effectiveness.

90019. The fees and assessments paid pursuant to this division are nonrefundable.

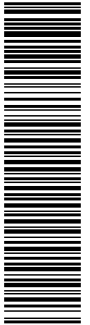
SEC. 10. Section 11041 of the Government Code is amended to read:

11041. (a) Section 11042 does not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of Transportation, Division of Labor Standards Enforcement of the Department of Industrial Relations, Workers' Compensation Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of ~~Education~~, Education, Department of Financial Protection and Innovation, and Treasurer with respect to bonds, nor to any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

(b) The Trustees of the California State University shall pay the cost of employing legal counsel from their existing resources.

SEC. 11. Section 12895 of the Government Code is amended to read:

12895. (a) There is in the Business, Consumer Services, and Housing Agency a Department of ~~Business Oversight containing the Division of Corporations~~, Financial Protection and Innovation, which has the responsibility for administering various laws. In order to effectively support the ~~Division of Corporations in the administration of these laws, there is hereby established the State Corporations Fund. All expenses and salaries of the Division of Corporations shall be paid out of the State Corporations Fund. Therefore, notwithstanding any provision of any law administered by the Division of Corporations declaring that fees, reimbursements, assessments, or other money or amounts charged and collected by the Division of Corporations under these laws are to be delivered or transmitted to the Treasurer and deposited to the credit of the General~~



Fund, all fees, reimbursements, assessments, and other money or amounts charged and collected under these laws shall be delivered or transmitted to the Treasurer and deposited to the credit of the State Corporations Fund. Department of Financial Protection and Innovation in the administration of these laws, there is hereby established the Financial Protection Fund, as described further in Section 90004 of the Financial Code. All expenses and salaries of the Department of Financial Protection and Innovation shall be paid out of the Financial Protection Fund, upon appropriation by the Legislature for these purposes.

(b) All the duties and responsibilities to be transferred and any remaining balances of the State Corporations Fund and Financial Institutions Fund, upon appropriation by the Legislature, shall be transferred to the Financial Protection Fund, which is hereby created and designated the successor fund. The State Corporations Fund and Financial Institutions Fund are abolished.

(c) Funds, subject to appropriation by the Legislature, from the Financial Protection Fund may be made available for expenditure for any law or program of the Department of Financial Protection and Innovation may come from the following:

(1) Fees and any other amounts charged and collected pursuant to Section 25608 of the Corporations Code, except for fees and other amounts charged and collected pursuant to subdivisions (o) to (r), inclusive, of Section 25608 of the Corporations Code.

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

(d) This section shall not apply to moneys collected or received by the commissioner under Division 5 (commencing with Section 14000) of the Financial Code.

(e) On and after the operative date of this subdivision, any reference in any law to the Financial Institutions Fund shall be deemed a reference to the Financial Protection Fund, and any reference in any law to the State Corporations Fund shall be deemed a reference to the Financial Protection Fund.

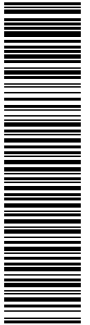
SEC. 12. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars of the alleged violation and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) ~~The Attorney General~~ General, the Commissioner of Financial Protection and Innovation as to violations of subdivision (e) or (i) of Section 12955, or the director may, in a like manner, make, sign, and file complaints citing practices that appear to



violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

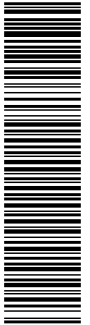
(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

- (1) The names of any witnesses and the dates of any contacts with those witnesses.
- (2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.
- (3) A summary of witness statements.
- (4) Answers to interrogatories.
- (5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If a civil action is not brought by the department within 100 days after the filing of a complaint, or if the department earlier determines that no civil action will be brought, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1. The notice shall also indicate, unless the department has determined that no civil action will be brought, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if the person does not desire to file a civil action. The superior courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in these courts. The action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on



the principal offices of the department. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

SEC. 13. Section 12989.3 of the Government Code is amended to read:

12989.3. (a) (1) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of denying to others the full enjoyment of any of the rights granted by this article, or that any group of persons has been denied any of the rights granted by this article and that denial raises an issue of general public importance, the Attorney General shall commence a civil action in any court.

(2) The Commissioner of Financial Protection and Innovation may institute a civil action in any court if the commissioner has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of denying to others the full enjoyment of any of the rights granted by subdivisions (e) and (i) of Section 12955, including any regulations issued thereunder, or that any group of persons has been denied any of the rights granted by subdivisions (e) and (i) of Section 12955, including any regulations issued thereunder, and that denial raises an issue of general public importance.

(b) Upon referral from the department, the Attorney General may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the department under subdivision (b) of Section 12981.

(c) A civil action under this section may be commenced not later than the expiration of 18 months after the date of the occurrence or termination of the alleged discriminatory housing practice.

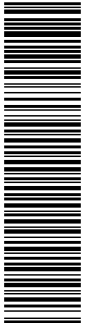
(d) The Attorney General shall commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the department. A civil action shall be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach.

(e) The Attorney General, on behalf of the department or other party at whose request a subpoena is issued, under this article, shall enforce that subpoena in appropriate proceedings in the court for the judicial district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) In a civil action under this section, the court may award any of the following:

(1) Preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title.

(2) Other relief as the court deems appropriate, including monetary damages to persons aggrieved.



(3) A civil penalty in an amount not exceeding fifty thousand dollars (\$50,000), for a first violation, and in an amount not exceeding one hundred thousand dollars (\$100,000), for any subsequent violation.

(g) In a civil action under this section, the court, in its discretion, may allow the prevailing party, reasonable attorney's fees and costs, including expert witness fees, against any party other than the state.

(h) Upon timely application, any person may intervene in a civil action commenced by the Attorney General or the Commissioner of Financial Protection and Innovation under this section that involves an alleged discriminatory housing practice with respect to which that person is an aggrieved person or a conciliation agreement to which that person is a party. The court may grant appropriate relief to any intervening party as is authorized to be granted to a plaintiff in a civil action under Section 12989.2.

SEC. 14. The Legislature finds and declares that Section 9 of this act, which adds Division 24 (commencing with Section 90000) to 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:

Financial records that include personal financial information and identity information must be protected against misuse. Therefore, it is in the health and safety of the people of California to preserve the confidentiality of this information.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.

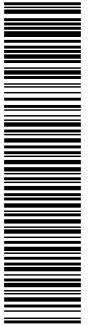
General Subject: Financial institutions: regulation: Department of Financial Protection and Innovation.

(1) Existing law establishes the Department of Business Oversight in the Business, Consumer Services, and Housing Agency, headed by the Commissioner of Business Oversight. Under existing law, the department has charge of the execution of specified laws relating to various financial institutions and financial services, including banks, trust companies, credit unions, finance lenders, and residential mortgage lenders.

This bill would rename the "Department of Business Oversight" as the "Department of Financial Protection and Innovation," which would be charged with execution of the above-specified laws. The bill would also put this department in charge of various other laws relating to providing financial products and services in this state. The bill would rename the commissioner of the department as the "Commissioner of Financial Protection and Innovation." The bill would specify that upon the operative date of its provisions, the powers, duties, responsibilities, and functions of the former Commissioner of Business Oversight and the Department of Business Oversight would become those of the Commissioner of Financial Protection and Innovation (commissioner) and the Department of Financial Protection and Innovation (department), respectively. The bill would require the commissioner and department to retain all of the rights, properties, debts, and liabilities of the former commissioner and department and would specify that the change of name does not affect the validity of actions, proceedings, permits, or other actions taken previously.

This bill would enact the California Consumer Financial Protection Law (CCFPL) to strengthen consumer protections by expanding the ability of the department to improve accountability and transparency in the California financial system and promote nondiscriminatory access to responsible, affordable credit, among other purposes. The bill would require the department to regulate the provision of various consumer financial products or services, and to exercise oversight and enforcement authority. The bill would grant the department the power to bring administrative and civil actions, issue subpoenas, promulgate regulations, hold hearings, issue publications, employ legal counsel and other specified staff, conduct investigations, and implement outreach and education programs, among other duties.

This bill would require all moneys collected or received by the commissioner under the CCFPL to be deposited with the State Treasurer to the credit of the Financial Protection Fund, which the bill would create, for the administration of the CCFPL. Moneys in those funds would consist of fees, fines, penalties, and other moneys received. All moneys in the fund would be available, upon appropriation by the Legislature, for purposes of the CCFPL. The bill would authorize the department to set and collect a reasonable annual registration fee for each entity required to register



under this law, and to take action against persons who engage in unfair, deceptive, or abusive practices with respect to consumer financial products or services.

The bill would require covered persons and service providers to file certain documents, under oath, with the department. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would also impose specific civil and monetary penalties for violations of the CCFPL, as well as injunctive relief. The bill would impose a time limitation for bringing a civil action under the CCFPL of no more than 4 years after the date of discovery of the violation, except in specified cases. The bill would require administrative procedures under the act to be conducted in accordance with the provisions of the Administrative Procedure Act and would authorize the department to enter into agreements with the Attorney General regarding coordinating civil and investigatory actions among these agencies. The bill would also require the commissioner to prepare and publish on its internet website an annual report containing specified information.

(2) Existing law generally prohibits state agencies from employing in-house counsel to act on behalf of the agency or its employees in judicial or administrative adjudicative proceedings, but exempts specified agencies from this provision, including the Regents of the University of California and the Trustees of the California State University.

This bill would exempt the Department of Financial Protection and Innovation from that provision.

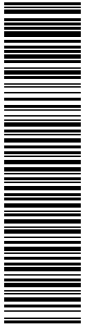
(3) Existing law creates in the Department of Business Oversight the Division of Corporations, and also establishes the State Corporations Fund for purposes of supporting the Division of Corporations.

This bill would abolish the Division of Corporations within the Department of Business Oversight, which would be replaced by the Department of Financial Protection and Innovation, as described above. The bill would abolish the State Corporations Fund and the Financial Institutions Fund and replace these funds with the Financial Protection Fund, with expenses and salaries of the department paid out of this new fund. The bill would require that all duties and responsibilities and remaining balances of the State Corporations Fund and Financial Institutions Fund, upon appropriation by the Legislature be transferred to the Financial Protection Fund as the successor fund. The bill would require funds from the Financial Protection Fund, upon appropriation by the Legislature, to be made available for expenditure for laws or programs of the department from fees and amounts charged pursuant to specified provisions of the Corporations Code.

(4) Existing law governs the procedure for the prevention and elimination of discrimination in employment and housing and authorizes the Attorney General or the Director of the Department of Fair Employment and Housing to file complaints citing practices in violation of those provisions.

This bill would authorize the Commissioner of Financial Protection and Innovation to file complaints under these provisions.

(5) The Corporate Securities Law of 1968 permits the Commissioner of Business Oversight to set specified fees for the 2002–03 and subsequent fiscal years in connection with securities-related actions in accordance with certain requirements and requires those fees to be credited to the State Corporations Fund. Existing law requires the Department of Business Oversight to report to specified legislative committees on the



fees to be reduced and the projected revenue and fund balance impact on the State Corporations Fund.

This bill would repeal those provisions.

(6) 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.

(7) 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.

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