

Department of Financial Protection and Innovation
Chapter 594, Statutes of 2023 (SB 54) Venture Capital Companies Reporting
Draft Trailer Bill Language

SECTION 1. Chapter 40 (commencing with Section 22949.85) of Division 8 of the Business and Professions Code is repealed.

SEC. 2. Division 2.5 (commencing with Section 27500) is added to Title 4 of the Corporations Code, to read:

DIVISION 2.5. FAIR INVESTMENT PRACTICES BY VENTURE CAPITAL COMPANIES

Chapter 1. Fair Investment Practices by Venture Capital Companies

27500. For purposes of this chapter, the following definitions apply:

- (a) "Commissioner" means the Commissioner of Financial Protection and Innovation.
- (b) "Covered entity" means a venture capital company that meets both of the following criteria:
 - (1) The venture capital company primarily engages in the business of investing in, or providing financing to, startup, early-stage, or emerging growth companies.
 - (2) The venture capital company meets any of the following criteria:
 - (A) The venture capital company is headquartered in California.
 - (B) The venture capital company has a significant presence or operational office in California.
 - (C) The venture capital company makes venture capital investments in businesses that are located in, or have significant operations in, California.
 - (D) The venture capital company solicits or receives investments from a person who is a resident of California.
- (c) "Department" means the Department of Financial Protection and Innovation.
- (d) "Diverse founding team member" means a founding team member who self-identifies as a woman, nonbinary, Black, African American, Hispanic, Latino-Latina, Asian, Pacific Islander, Native American, Native Hawaiian, Alaskan Native, disabled, veteran or disabled veteran, lesbian, gay, bisexual, transgender, or queer.
- (e) "Founding team member" means either of the following:
 - (1) A person who satisfies all of the following conditions:
 - (A) The person owned initial shares or similar ownership interests of the business.
 - (B) The person contributed to the concept of, research for, development of, or work performed by the business before initial shares were issued.
 - (C) The person was not a passive investor in the business.
 - (2) A person who has been designated as the chief executive officer or president.
- (f) "Primarily founded by diverse founding team members" means a founding team for which more than one-half of the founding team members responded to the survey described in paragraph (1) of subdivision (b) of Section 27501 and at least one-half of the founding team members are diverse founding team members.
- (g) "Venture capital company" has the same meaning as defined in paragraph (4) of subdivision (a) of Section 260.204.9 of Title 10 of the California Code of Regulations.
- (h) "Venture capital investment" has the same meaning as defined in paragraph (5) of subdivision (a) of Section 260.204.9 of Title 10 of the California Code of Regulations.

27501.

(a) (1) Commencing March 1, 2026, a covered entity shall submit to the department the following information in a manner prescribed by department guidance: Covered entity name, point of contact name and title, point of contact email address, designated email address, phone number, physical address, and website.

(2) The covered entity shall keep this information up to date and submit changes to the required information upon filing the report required by subdivision (c).

(3)(A) If a covered entity fails to update this information in the report required by subdivision (c) by April 1 of a given year, the department shall notify the covered entity that the covered entity has 60 days to submit the updates without penalty within 60 days of the notification.

(B) If a covered entity has not submitted the updated information, after the 60-day period described in subparagraph (A) has elapsed, the department may pursue all remedies provided under this section.

(a) (b) Commencing ~~March~~ **April** 1, 2026, and annually thereafter, a covered entity shall report to the department all of the following information about its funding determinations:

(1) At an aggregated level, all of the following information for the founding teams of all of the businesses in which the covered entity made a venture capital investment in the prior calendar year to the extent the information was provided pursuant to the survey described in paragraph (1) of subdivision (b):

(A) The gender identity of each member of the founding team, including nonbinary and gender-fluid identities.

(B) The race of each member of the founding team.

(C) The ethnicity of each member of the founding team.

(D) The disability status of each member of the founding team.

(E) Whether any member of the founding team identifies as LGBTQ+.

(F) Whether any member of the founding team is a veteran or a disabled veteran.

(G) Whether any member of the founding team is a resident of California.

(H) Whether any member of the founding team declined to provide any of the information described in subparagraphs (A) to (G), inclusive.

(2) (A) During the prior calendar year, the number of venture capital investments to businesses primarily founded by diverse founding team members, as a percentage of the total number of venture capital investments the covered entity made, in the aggregate and broken down into the categories described in subparagraphs (A) to (H), inclusive, of paragraph (1).

(B) The information provided pursuant to this subparagraph shall be anonymized to the extent **possible. necessary to protect business confidential information.**

(3) During the prior calendar year, the total amount of venture capital investments to businesses primarily founded by diverse founding team members, as a percentage of venture capital investments made by the covered entity, in the aggregate and broken down into the categories described in subparagraphs (A) to (H), inclusive, of paragraph (1).

(4) The total amount of money in venture capital investments the covered entity invested in each business during the prior calendar year.

(5) The principal place of business of each company in which the covered entity made a venture capital investment during the prior calendar year.

(b)(c) (1) A covered entity shall obtain the information required by subdivision (a) by providing each founding team member of a business that has received funding from a covered entity with an opportunity to participate in a survey for the purpose of collecting the information.

(2) The survey described in paragraph (1) of subdivision (a) shall be provided pursuant to a standardized form specified by the department. The survey shall

include a "decline to state" option for each question on the survey.

(3) A covered entity shall provide a written disclosure to each founding team member prior to, or concurrently with, the survey described in paragraph (1) of subdivision (a) that states all of the following:

(A) The founding team member's decision to disclose their demographic information is voluntary.

(B) No adverse action will be taken against the founding team member if they decline to participate in the survey.

(C) The aggregate data collected for each demographic category will be reported to the department.

(4) A covered entity shall not provide the survey described in paragraph (1) of subdivision (a) and the disclosure described in paragraph (3) to a founding team member until after the covered entity has executed an investment agreement with the business and made the first transfer of funds.

(5) Neither a covered entity nor the department shall in any way encourage, incentivize, or attempt to influence the decision of a founding team member to participate in the survey described in paragraph (1) of subdivision (a).

~~(e)~~ (d) A covered entity required to conduct the survey described in paragraph (1) of subdivision (b) shall do both of the following:

(1) Collect survey response data from the founding team members in a manner that does not associate the survey response data with an individual founding team member.

(2) Report the survey response data pursuant to paragraph (1) in a manner that does not associate the survey response data with an individual founding team member.

(3) A covered entity may satisfy the requirements of this chapter by providing a report prepared by a business that controls each covered entity at any time during the prior calendar year if the report contains all of the information required by subdivision (a).

27502. (a) (1) The department shall make the reports received pursuant to subdivision (a) of Section 27501 readily accessible, easily searchable, and easily downloadable on the department's internet website.

(2) The department may publish aggregate results or aggregate information based on the information received pursuant to this chapter.

(b) The department may use any information collected pursuant to this chapter in furtherance of its statutory duties, including, but not limited to, using the information in a civil action brought by the department under this chapter or other law.

(c) (1) A covered entity shall make and keep records related to its obligation under this chapter. All records related to a report delivered to the department pursuant to subdivision (a) of Section 27501 shall be preserved for at least five years after the covered entity delivers the report.

(2) The department may examine the records of a covered entity to determine their compliance with this ~~section chapter. using powers set forth in Sections 11180 to 11191, inclusive, of the Government Code and may further require a covered entity to:~~

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

(B) File written reports or answers to questions.

(d) The department shall charge and collect fees from covered entities to cover the expenses incurred in the administration of this chapter, not to exceed the reasonable costs of that administration.

(1) The fee per report shall be at least one hundred ~~seventy five fifty~~ dollars (\$~~17550~~).

(2) The department may adjust this fee as necessary to meet the reasonable costs of administration. ~~of this chapter.~~

(e) If a covered entity fails to file a report required by subdivision (b) by April 1 of

a given year, the department shall notify the covered entity that the covered entity has 60 days to submit the report without penalty.

(f) (1) If a covered entity has not submitted a report, after the 60-day period described in subdivision (f) has elapsed, the department may pursue all remedies provided under this section.

27503. (a) With respect to the investigative powers of the commissioner and the department under this chapter, all of the following apply:

(1) The commissioner may do the following at their discretion:

~~(A) Make public or private investigations within or outside of this state as they deem necessary to determine whether a covered entity has violated or is about to violate any provision of this chapter, any rule or order pursuant to this chapter or to aid in the enforcement of this chapter in the prescribing of rules and forms pursuant to this chapter.~~

~~(B) Publish information concerning any violations of this chapter or of any rule or order pursuant to this chapter.~~

~~(2) The commissioner and the department shall have all the investigatory and subpoena powers set forth in Sections 11180 to 11191, inclusive, of the Government Code and any subpoena may further require a person to:~~

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

~~(B) File written reports or answers to questions.~~

~~(b) In making any investigation authorized by paragraph (1) of subdivision (a), the commissioner may, for a reasonable time not exceeding 30 days, take possession of the books, records, accounts, and other papers pertaining to the business of the covered entity and place a keeper in exclusive charge of them in the place where they are usually kept.~~

~~(1) During possession pursuant to this subdivision, a person shall not remove or attempt to remove any of the books, records, accounts, or other papers, except pursuant to a court order or with the consent of the commissioner.~~

~~(2) Notwithstanding paragraph (1), any director, officer, partner, and employee of the covered entity may examine any of the books, records, accounts, or other papers. Any employee of the covered entity shall be permitted to make entries therein reflecting current activity.~~

~~(c) For the purpose of any investigation or proceeding under this chapter, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner deems relevant or material to the inquiry.~~

~~(d) In case of contumacy by, or refusal to obey a subpoena issued to, any covered entity or person, the superior court, upon application by the commissioner, may issue to the covered entity or person an order requiring them to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt.~~

~~(e) (1) A covered entity or person shall not be excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence, documentary or otherwise, required of the covered entity or person may tend to incriminate them or subject them to a penalty or forfeiture.~~

~~(2) A covered entity or person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing~~

~~concerning which the covered entity or person is compelled, after validly claiming their privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the covered entity or person testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.~~

27504. (a) With respect to the enforcement powers of the commissioner and the department under this chapter, all of the following apply:

(1) The department may take any action authorized by this chapter against a covered entity who fails to file a report required by subdivision (a) of Section 27501 ~~by April 1, 2026, and annually thereafter, and does not satisfy the requirements of subdivision (g)~~ or who makes an untrue statement of a material fact in any report filed with the ~~commissioner, department.~~

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

(A) An order requiring the covered entity to desist and refrain from the violation.
(B) An order requiring costs, representing reasonable attorney's fees and investigative expenses for the services rendered, for deposit into the Financial Protection Fund for use by the department.

(C) An order requiring the payment of monetary penalties, as set forth by subdivision (b).

(b) (1) In any civil or administrative action brought pursuant to this chapter in which the commissioner orders penalties, the following penalty amounts apply:

(A) For any violation of this chapter, rule or final order pursuant to this chapter, or condition imposed in writing by the department, a penalty shall not exceed five thousand dollars (\$5,000) for each day during which the violation or failure to pay continues.

(B) Notwithstanding subparagraph (A), for any reckless violation by a covered entity subject to this chapter, rule or final order pursuant to this chapter, or condition imposed by the department, a penalty that is sufficient to deter the respondent from failing to comply with this section, and exceeds the penalty amount provided in paragraph (1), shall not exceed twenty-five thousand dollars (\$25,000) for each day during which the violation continues.

(C) Notwithstanding subparagraphs (A) or (B), for any knowing violation by a covered entity subject to this chapter, rule or final order pursuant to this chapter, or condition imposed by the department, a penalty that is sufficient to deter the respondent from failing to comply with this section, and exceeds the penalty amount provided in paragraph (2), shall not exceed the lesser of 1 percent of the person's total assets or one million dollars (\$1,000,000) for each day during which the violation continues.

(2) In determining the amount of any penalty ordered under this chapter, the commissioner shall take into account mitigating factors and the appropriateness of the penalty with respect to all of the following:

- (A) The financial standing of the covered entity.
- (B) The number of assets under management by the covered entity.
- (C) The nature of the covered entity's failure to comply with this chapter.
- (D) The amount of financial resources available to the covered entity.
- (E) The covered entity's history of previous violations.

(3) The ~~department commissioner~~ may compromise, modify, or remit any penalty that may be ordered or that has already been ordered.

27505. (a) (1) If, after an order has been served pursuant to Section 27504, a request for hearing is filed in writing within 30 days of the date of service of the order on the covered entity, a hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that chapter.

(2) If a covered entity 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 and is not subject to review by any court or agency,

notwithstanding subdivision (b).

(b) Every final order, decision, or other official act of the commissioner is subject to judicial review in accordance with law.

(c) The commissioner may file a certified copy of the final order with the clerk of the superior court or any court of competent jurisdiction. The final order filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(d) (1) If a covered entity does not comply with an order under this chapter, the commissioner may petition the superior court or any court of competent jurisdiction to enforce the order.

(2) The court shall not require the commissioner to post a bond in an action or proceeding under this chapter.

(3) If the court finds, after service and opportunity for hearing, that the covered entity was not in compliance with the order, the court may adjudge the covered entity in civil contempt of the order. The court may impose a further civil penalty against the covered entity for contempt and may grant any other relief the court determines is just and proper under the circumstances.

(e) When a covered entity, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order pursuant to this chapter, whether or not the covered entity has filed a consent to service of process, and personal jurisdiction over the covered entity cannot otherwise be obtained in this state, that conduct shall be considered equivalent to the covered entity's appointment of the commissioner or the commissioner's successor in office to be the covered entity's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the covered entity or the covered entity's successor, executor, or administrator that grows out of that conduct and that is brought under this chapter or any rule or order pursuant to this chapter, with the same force and validity as if served on the covered entity personally. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not in effect unless the following conditions are met:

(1) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by commissioner, sends notice of the service and a copy of the process by registered or certified mail to the covered entity at the covered entity's last known address or take other steps that are reasonably calculated to give actual notice.

(2) The plaintiff's affidavit of compliance with this chapter is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

27506. (a) The commissioner may make, amend, and rescind any rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules and forms governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter.

(b) Moneys collected pursuant to this chapter shall be deposited in the Financial Protection Fund established pursuant to Section 12895 of the Government Code. It is the intent of the Legislature that the moneys collected pursuant to this chapter be appropriated in the annual Budget Act to the department for administration of this chapter.

SEC. 3. Section 12907 of the Government Code is amended to read:

12907. (a) The Civil Rights Enforcement and Litigation Fund is hereby established in the State Treasury, to be administered by the Civil Rights Department.

~~(b) The fund shall consist of both of the following:~~

~~(1) Attorney's~~

~~(b) The fund shall consist of attorney's fees and costs awarded by a court to the Civil Rights Department when the department is the prevailing party in a civil action brought under the California Fair Employment and Housing Act.~~

~~(2) Moneys awarded to the Civil Rights Department pursuant to Chapter 40 (commencing with Section 22949.85) of Division 8 of the Business and Professions~~

Code.

(c) Upon appropriation by the Legislature in the annual Budget Act, moneys in the fund may be used to offset the costs of the department.