

**ASSEMBLY BILL**

**No. 2749**

---

---

**Introduced by Assembly Member Gaines**

February 22, 2008

---

---

An act to amend Section 1798.24 of the Civil Code, to amend Sections 216.3, 1757, and 1935 of, to add Sections 131 and 139.95 to, to add Article 6 (commencing with Section 280) to Chapter 2 of Division 1 of, and to repeal Sections 1909, 1930, 1931, 1934, 1936, 1937, 1938, 1939, and 1945 of, the Financial Code, and to amend Sections 6254.5 and 6276.06 of the Government Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2749, as introduced, Gaines. Financial institutions: disclosure and reporting requirements.

Existing law, the Banking Law, provides for the licensure and regulation by the Department of Financial Institutions of various financial institutions, including banks, commercial banks, and trust companies. The Banking Law sets forth specified disclosure and reporting requirements imposed upon those entities. Any person intentionally making a false statement in any report required under the Banking Law is guilty of perjury, a crime.

This bill would revise and recast those disclosure and reporting requirements, as specified, and would provide that those requirements apply to all licensees regulated by the Department of Financial Institutions. For those purposes, "licensee" would be defined to include, among others, banks, industrial banks, trust companies, foreign (other nation) banks, any corporation licensed by the commissioner to transmit money or issue traveler's checks, savings associations, credit unions, foreign (other state) credit unions, and industrial loan companies. The

bill would subject a licensee to the above-described perjury provisions, thereby expanding a crime and imposing a state-mandated local program.

Under specified circumstances, this bill would also allow a foreign (other state) or foreign (other nation) financial institutions regulatory agency to examine a licensee and any of its offices. The bill would further set forth procedures related to the furnishing of confidential information, as defined, by the Commissioner of Financial Institutions.

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

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

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

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

- 1 SECTION 1. Section 1798.24 of the Civil Code is amended
- 2 to read:
- 3 1798.24. No agency may disclose any personal information in
- 4 a manner that would link the information disclosed to the individual
- 5 to whom it pertains unless the information is disclosed, as follows:
- 6 (a) To the individual to whom the information pertains.
- 7 (b) With the prior written voluntary consent of the individual
- 8 to whom the record pertains, but only if that consent has been
- 9 obtained not more than 30 days before the disclosure, or in the
- 10 time limit agreed to by the individual in the written consent.
- 11 (c) To the duly appointed guardian or conservator of the
- 12 individual or a person representing the individual if it can be proven
- 13 with reasonable certainty through the possession of agency forms,
- 14 documents or correspondence that this person is the authorized
- 15 representative of the individual to whom the information pertains.
- 16 (d) To those officers, employees, attorneys, agents, or volunteers
- 17 of the agency that has custody of the information if the disclosure
- 18 is relevant and necessary in the ordinary course of the performance
- 19 of their official duties and is related to the purpose for which the
- 20 information was acquired.
- 21 (e) To a person, or to another agency where the transfer is
- 22 necessary for the transferee agency to perform its constitutional
- 23 or statutory duties, and the use is compatible with a purpose for

1 which the information was collected and the use or transfer is  
2 accounted for in accordance with Section 1798.25. With respect  
3 to information transferred from a law enforcement or regulatory  
4 agency, or information transferred to another law enforcement or  
5 regulatory agency, a use is compatible if the use of the information  
6 requested is needed in an investigation of unlawful activity under  
7 the jurisdiction of the requesting agency or for licensing,  
8 certification, or regulatory purposes by that agency.

9 (f) To a governmental entity when required by state or federal  
10 law.

11 (g) Pursuant to the California Public Records Act (Chapter 3.5  
12 (commencing with Section 6250) of Division 7 of Title 1 of the  
13 Government Code).

14 (h) To a person who has provided the agency with advance,  
15 adequate written assurance that the information will be used solely  
16 for statistical research or reporting purposes, but only if the  
17 information to be disclosed is in a form that will not identify any  
18 individual.

19 (i) Pursuant to a determination by the agency that maintains  
20 information that compelling circumstances exist that affect the  
21 health or safety of an individual, if upon the disclosure notification  
22 is transmitted to the individual to whom the information pertains  
23 at his or her last known address. Disclosure shall not be made if  
24 it is in conflict with other state or federal laws.

25 (j) To the State Archives as a record that has sufficient historical  
26 or other value to warrant its continued preservation by the  
27 California state government, or for evaluation by the Director of  
28 General Services or his or her designee to determine whether the  
29 record has further administrative, legal, or fiscal value.

30 (k) To any person pursuant to a subpoena, court order, or other  
31 compulsory legal process if, before the disclosure, the agency  
32 reasonably attempts to notify the individual to whom the record  
33 pertains, and if the notification is not prohibited by law.

34 (l) To any person pursuant to a search warrant.

35 (m) Pursuant to Article 3 (commencing with Section 1800) of  
36 Chapter 1 of Division 2 of the Vehicle Code.

37 (n) For the sole purpose of verifying and paying government  
38 health care service claims made pursuant to Division 9  
39 (commencing with Section 10000) of the Welfare and Institutions  
40 Code.

1 (o) To a law enforcement or regulatory agency when required  
2 for an investigation of unlawful activity or for licensing,  
3 certification, or regulatory purposes, unless the disclosure is  
4 otherwise prohibited by law.

5 (p) To another person or governmental organization to the extent  
6 necessary to obtain information from the person or governmental  
7 organization as necessary for an investigation by the agency of a  
8 failure to comply with a specific state law that the agency is  
9 responsible for enforcing.

10 (q) To an adopted person and is limited to general background  
11 information pertaining to the adopted person's natural parents,  
12 provided that the information does not include or reveal the identity  
13 of the natural parents.

14 (r) To a child or a grandchild of an adopted person and  
15 disclosure is limited to medically necessary information pertaining  
16 to the adopted person's natural parents. However, the information,  
17 or the process for obtaining the information, shall not include or  
18 reveal the identity of the natural parents. The State Department of  
19 Social Services shall adopt regulations governing the release of  
20 information pursuant to this subdivision by July 1, 1985. The  
21 regulations shall require licensed adoption agencies to provide the  
22 same services provided by the department as established by this  
23 subdivision.

24 (s) To a committee of the Legislature or to a Member of the  
25 Legislature, or his or her staff when authorized in writing by the  
26 member, where the member has permission to obtain the  
27 information from the individual to whom it pertains or where the  
28 member provides reasonable assurance that he or she is acting on  
29 behalf of the individual.

30 (t) (1) To the University of California or a nonprofit educational  
31 institution conducting scientific research, provided the request for  
32 information is approved by the Committee for the Protection of  
33 Human Subjects (CPHS) for the California Health and Human  
34 Services Agency (CHHSA). The CPHS approval required under  
35 this subdivision shall include a review and determination that all  
36 the following criteria have been satisfied:

37 (A) The researcher has provided a plan sufficient to protect  
38 personal information from improper use and disclosures, including  
39 sufficient administrative, physical, and technical safeguards to

1 protect personal information from reasonable anticipated threats  
2 to the security or confidentiality of the information.

3 (B) The researcher has provided a sufficient plan to destroy or  
4 return all personal information as soon as it is no longer needed  
5 for the research project, unless the researcher has demonstrated  
6 an ongoing need for the personal information for the research  
7 project and has provided a long-term plan sufficient to protect the  
8 confidentiality of that information.

9 (C) The researcher has provided sufficient written assurances  
10 that the personal information will not be reused or disclosed to  
11 any other person or entity, or used in any manner, not approved  
12 in the research protocol, except as required by law or for authorized  
13 oversight of the research project.

14 (2) The CPHS shall, at a minimum, accomplish all of the  
15 following as part of its review and approval of the research project  
16 for the purpose of protecting personal information held in agency  
17 databases:

18 (A) Determine whether the requested personal information is  
19 needed to conduct the research.

20 (B) Permit access to personal information only if it is needed  
21 for the research project.

22 (C) Permit access only to the minimum necessary personal  
23 information needed for the research project.

24 (D) Require the assignment of unique subject codes that are not  
25 derived from personal information in lieu of social security  
26 numbers if the research can still be conducted without social  
27 security numbers.

28 (E) If feasible, and if cost, time, and technical expertise permit,  
29 require the agency to conduct a portion of the data processing for  
30 the researcher to minimize the release of personal information.

31 (3) Reasonable costs to the agency associated with the agency's  
32 process of protecting personal information under the conditions  
33 of CPHS approval may be billed to the researcher, including, but  
34 not limited to, the agency's costs for conducting a portion of the  
35 data processing for the researcher, removing personal information,  
36 encrypting or otherwise securing personal information, or assigning  
37 subject codes.

38 (4) The CPHS may enter into written agreements to enable other  
39 institutional review boards to provide the data security approvals

1 required by this subdivision, provided the data security  
2 requirements set forth in this subdivision are satisfied.

3 (u) To an insurer if authorized by Chapter 5 (commencing with  
4 Section 10900) of Division 4 of the Vehicle Code.

5 (v) Pursuant to Section ~~1909~~ 280, 8009, or 18396 of the  
6 Financial Code.

7 This article shall not be construed to require the disclosure of  
8 personal information to the individual to whom the information  
9 pertains when that information may otherwise be withheld as set  
10 forth in Section 1798.40.

11 SEC. 2. Section 131 is added to the Financial Code, to read:

12 131. (a) “Confidential information” means any information  
13 regarding a licensee contained in, or related to, any of the  
14 following:

- 15 (1) Applications filed with the commissioner.
- 16 (2) Examination, operating, condition, or any other reports  
17 prepared by, on behalf of, or for the use of, the commissioner.
- 18 (3) Information received in confidence by the commissioner.

19 (b) Confidential information is the property of the commissioner.

20 SEC. 3. Section 139.95 is added to the Financial Code, to read:

21 139.95. “Licensee” has the following meanings:

22 (a) Any bank authorized by the commissioner pursuant to  
23 Section 401 to transact banking or trust business.

24 (b) Any industrial bank authorized by the commissioner pursuant  
25 to Section 401 to transact industrial banking business.

26 (c) Any trust company authorized by the commissioner pursuant  
27 to Section 401 to transact trust business.

28 (d) Any foreign (other nation) bank that is licensed under Article  
29 2 (commencing with Section 1725) of Chapter 13.5 or under Article  
30 3 (commencing with Section 1750) of Chapter 13.5.

31 (e) Any corporation licensed by the commissioner to transmit  
32 money pursuant to Section 1802.7.

33 (f) Any person licensed by the commissioner to issue traveler’s  
34 checks pursuant to Section 1860.

35 (g) Any person authorized by the commissioner to conduct the  
36 business of a savings association pursuant to Division 2  
37 (commencing with Section 5000).

38 (h) Any credit union authorized by the commissioner to conduct  
39 business pursuant to Section 14154.

1 (i) Any foreign (other state) credit union licensed by the  
2 commissioner to conduct business pursuant to Chapter 11  
3 (commencing with Section 16000) of Division 5.

4 (j) Any foreign (other nation) credit union licensed by the  
5 commissioner to conduct business pursuant to Chapter 12  
6 (commencing with Section 16500) of Division 5.

7 (k) Any industrial loan company authorized by the commissioner  
8 to conduct insurance premium finance business pursuant to  
9 Division 7 (commencing with Section 18000).

10 (l) Any corporation licensed by the commissioner as a business  
11 and industrial development corporation pursuant to Section 31154.

12 (m) Any corporation licensed by the commissioner pursuant to  
13 Section 33406 to engage in the business of selling payment  
14 instruments.

15 SEC. 4. Section 216.3 of the Financial Code is amended to  
16 read:

17 216.3. (a) For purposes of this section, the following  
18 definitions apply:

19 (1) "Applicable law" means:

20 (A) With respect to any bank, Division 1.5 (commencing with  
21 Section 4800), and any of the following provisions of Division 1  
22 (commencing with Section 99) of the Financial Code:

23 (i) Article 5 (commencing with Section 270) of Chapter 2.

24 (ii) Article 3 (commencing with Section 640) of Chapter 5.

25 (iii) Article 4.5 (commencing with Section 670) of Chapter 5.

26 (iv) Article 6 (commencing with Section 690) of Chapter 5.

27 (v) Chapter 6 (commencing with Section 750).

28 (vi) Chapter 10 (commencing with Section 1200).

29 (vii) Article 1 (commencing with Section 1400) of Chapter 11.

30 (viii) Chapter 12 (commencing with Section 1500).

31 (ix) Chapter 13.5 (commencing with Section 1700).

32 (x) ~~Section 1936~~ 286.

33 (xi) ~~Section 1937~~ 287.

34 (xii) ~~Section 1938~~ 288.

35 (xiii) ~~Section 1939~~ 289.

36 (xiv) ~~Section 1945~~ 290.

37 (xv) Section 1951.

38 (xvi) Section 3359.

39 (xvii) Chapter 19 (commencing with Section 3500).

40 (xviii) Chapter 21.5 (commencing with Section 3750).

- 1 (xix) Chapter 22 (commencing with Section 3800).  
2 (B) With respect to any savings association, any provision of  
3 Division 1.5 (commencing with Section 4800) and Division 2  
4 (commencing with Section 5000).  
5 (C) With respect to any issuer of traveler's checks, any provision  
6 of Chapter 14A (commencing with Section 1851) of Division 1.  
7 (D) With respect to any insurance premium finance company,  
8 any provision of Division 7 (commencing with Section 18000).  
9 (E) With respect to any business and development corporation,  
10 any provision of Division 15 (commencing with Section 31000).  
11 (F) With respect to any credit union, any of the following  
12 provisions:  
13 (i) Section 14252.  
14 (ii) Section 14253.  
15 (iii) Section 14255.  
16 (iv) Article 4 (commencing with Section 14350) of Chapter 3  
17 of Division 5.  
18 (v) Section 14401.  
19 (vi) Section 14404.  
20 (vii) Section 14408, only as that section applies to gifts to  
21 directors, volunteers, and employees, and the related family or  
22 business interests of the directors, volunteers, and employees.  
23 (viii) Section 14409.  
24 (ix) Section 14410.  
25 (x) Article 5 (commencing with Section 14600) of Chapter 4  
26 of Division 5.  
27 (xi) Article 6 (commencing with Section 14650) of Chapter 4  
28 of Division 5, excluding subdivision (a) of Section 14651.  
29 (xii) Section 14803.  
30 (xiii) Section 14851.  
31 (xiv) Section 14858.  
32 (xv) Section 14860.  
33 (xvi) Section 14861.  
34 (xvii) Section 14863.  
35 (G) With respect to any person licensed to transmit money  
36 abroad, any provision of Chapter 14 (commencing with Section  
37 1800).  
38 (H) With respect to any person licensed to sell payment  
39 instruments, any provision of Division 16 (commencing with  
40 Section 33000).

1 (2) “Licensee” means any bank, savings association, credit  
2 union, transmitter of money abroad, issuer of payment instruments,  
3 issuer of traveler’s checks, insurance premium finance agency, or  
4 business and industrial development corporation that is authorized  
5 by the commissioner to conduct business in this state.

6 (b) Notwithstanding any other provision of this code that applies  
7 to a licensee or a subsidiary of a licensee, after notice and an  
8 opportunity to be heard, the commissioner may, by order that shall  
9 include findings of fact which incorporates a determination made  
10 in accordance with subdivision (e), levy civil penalties against any  
11 licensee or any subsidiary of a licensee who has violated any  
12 provision of applicable law, any order issued by the commissioner,  
13 any written agreement between the commissioner and the licensee  
14 or subsidiary of the licensee, or any condition of any approval  
15 issued by the commissioner. Notwithstanding any other provision  
16 of law, neither the commissioner nor any employee of the  
17 department shall disclose or permit the disclosure of any record,  
18 record of any action, or information contained in a record of any  
19 action, taken by the commissioner under the provisions of this  
20 section, unless the action was taken pursuant to paragraph (2) of  
21 subdivision (b), to persons other than federal or state government  
22 employees who are authorized by statute to obtain the records in  
23 the performance of their official duties, unless the disclosure is  
24 authorized or requested by the affected licensee or the affected  
25 subsidiary of the licensee. The commissioner shall have the sole  
26 authority to bring any action with respect to a violation of  
27 applicable law subject to a penalty imposed under this section.

28 Except as provided in paragraphs (1) and (2), any penalty  
29 imposed by the commissioner may not exceed one thousand dollars  
30 (\$1,000) a day, provided that the aggregate penalty of all offenses  
31 in any one action against any licensee or subsidiary of a licensee  
32 shall not exceed fifty thousand dollars (\$50,000).

33 (1) If the commissioner determines that any licensee or  
34 subsidiary of the licensee has recklessly violated any applicable  
35 law, any order issued by the commissioner, any provision of any  
36 written agreement between the commissioner and the licensee or  
37 subsidiary, or any condition of any approval issued by the  
38 commissioner, the commissioner may impose a penalty not to  
39 exceed five thousand dollars (\$5,000) per day, provided that the  
40 aggregate penalty of all offenses in an action against any licensee

1 or subsidiary of a licensee shall not exceed seventy-five thousand  
2 dollars (\$75,000).

3 (2) If the commissioner determines that any licensee or  
4 subsidiary of the licensee has knowingly violated any applicable  
5 law, any order issued by the commissioner, any provision of any  
6 written agreement between the commissioner and the licensee or  
7 subsidiary, or any condition of any approval issued by the  
8 commissioner, the commissioner may impose a penalty not to  
9 exceed ten thousand dollars (\$10,000) per day, provided that the  
10 aggregate penalty of all offenses in an action against any licensee  
11 or subsidiary of a licensee shall not exceed 1 percent of the total  
12 assets of the licensee or subsidiary of a licensee subject to the  
13 penalty.

14 (c) Nothing in this section shall be construed to impair or impede  
15 the commissioner from pursuing any other administrative action  
16 allowed by law.

17 (d) Nothing in this section shall be construed to impair or impede  
18 the commissioner from bringing an action in court to enforce any  
19 law or order he or she has issued, including orders issued under  
20 this section. Nothing in this section shall be construed to impair  
21 or impede the commissioner from seeking any other damages or  
22 injunction allowed by law.

23 (e) In determining the amount and the appropriateness of  
24 initiating a civil money penalty under subdivision (b), the  
25 commissioner shall consider all of the following:

26 (1) Evidence that the violation or practice or breach of duty was  
27 intentional or was committed with a disregard of the law or with  
28 a disregard of the consequences to the institution.

29 (2) The duration and frequency of the violations, practices, or  
30 breaches of duties.

31 (3) The continuation of the violations, practices, or breaches of  
32 duty after the licensee or subsidiary of the licensee was notified,  
33 or, alternatively, its immediate cessation and correction.

34 (4) The failure to cooperate with the commissioner in effecting  
35 early resolution of the problem.

36 (5) Evidence of concealment of the violation, practice, or breach  
37 of duty or, alternatively, voluntary disclosure of the violation,  
38 practice, or breach of duty.

1 (6) Any threat of loss, actual loss, or other harm to the  
2 institution, including harm to the public confidence in the  
3 institution, and the degree of that harm.

4 (7) Evidence that a licensee or subsidiary of a licensee received  
5 financial gain or other benefit as a result of the violation, practice,  
6 or breach of duty.

7 (8) Evidence of any restitution paid by a licensee or subsidiary  
8 of a licensee of losses resulting from the violation, practice, or  
9 breach of duty.

10 (9) History of prior violations, practices, or breaches of duty,  
11 particularly where they are similar to the actions under  
12 consideration.

13 (10) Previous criticism of the institution for similar actions.

14 (11) Presence or absence of a compliance program and its  
15 effectiveness.

16 (12) Tendency to engage in violations of law, unsafe or unsound  
17 banking practices, or breaches of duties.

18 (13) The existence of agreements, commitments, orders, or  
19 conditions imposed in writing intended to prevent the violation,  
20 practice, or breach of duty.

21 (14) Whether the violation, practice, or breach of duty causes  
22 quantifiable, economic benefit or loss to the licensee or the  
23 subsidiary of the licensee. In those cases, removal of the benefit  
24 or recompense of the loss usually will be insufficient, by itself, to  
25 promote compliance with the applicable law, order, or written  
26 agreement. The penalty amount should reflect a remedial purpose  
27 and should provide a deterrent to future misconduct.

28 (15) Other factors as the commissioner may, in his or her  
29 opinion, consider relevant to assessing the penalty or establishing  
30 the amount of the penalty.

31 (f) The amounts collected under this section shall be deposited  
32 in the appropriate fund of the department. For purposes of this  
33 subdivision, the term “appropriate fund” means the fund to which  
34 the annual assessments of fined licensees, or the parent licensee  
35 of the fined subsidiary, are credited.

36 SEC. 5. Article 6 (commencing with Section 280) is added to  
37 Chapter 2 of Division 1 of the Financial Code, to read:

Article 6. General Operational Provisions

1  
2  
3 280. (a) In this section, “governmental agency” includes,  
4 without limitation, any agency of this state, of any other state of  
5 the United States, of the United States, or of any foreign nation.  
6 (b) The commissioner may furnish information to a  
7 governmental agency that regulates financial institutions.  
8 (c) The commissioner may furnish to a governmental agency  
9 that administers a loan guarantee or similar program, information  
10 relating to a person who participates in the program.  
11 (d) The commissioner may furnish to a governmental agency  
12 that regulates business activities, other than the type described in  
13 subdivision (b), information relating to any of the following:  
14 (1) A suspected violation of a law administered by the agency.  
15 (2) A person involved in an application to the agency for a  
16 license, approval, or other authorization.  
17 (e) The commissioner may furnish to a governmental agency  
18 that is a law enforcement agency information relating to a suspected  
19 crime.  
20 (f) The commissioner may furnish information to any person  
21 who provides share insurance or guaranty of the shares of a credit  
22 union in accordance with Section 14858, 16004, or 16503.  
23 (g) The commissioner may furnish confidential information  
24 regarding a licensee to the directors, officers, employees, attorneys,  
25 accountants, and consultants of that licensee in accordance with  
26 Section 282.  
27 (h) This section does not prescribe the only circumstances under  
28 which the commissioner may furnish information.  
29 281. With the prior approval of the commissioner, a foreign  
30 (other state) or foreign (other nation) financial institutions  
31 regulatory agency may examine a licensee and any of its offices,  
32 provided that the agency has a regulatory interest in the licensee.  
33 Any regulatory agency approved by the commissioner under this  
34 section shall be considered a supervisory agency under subdivision  
35 (f) of Section 7480 of the Government Code.  
36 282. (a) Directors, officers, employees, attorneys, accountants,  
37 or consultants of a licensee may not disclose in any manner  
38 confidential information regarding the licensee with any person.  
39 The prohibition in this section shall not apply to disclosures of

1 confidential information by directors, officers, employees,  
2 attorneys, accountants, or consultants of the licensee:

3 (1) Made pursuant to a subpoena or other discovery proceeding.

4 (2) Made to any state or federal prosecuting or investigatory  
5 agency or authority.

6 (3) Made to any state, federal, or foreign (other nation) financial  
7 institutions regulatory agency that has a direct regulatory interest  
8 in the licensee.

9 (4) Made to any state or federal taxing agency.

10 (5) Made as otherwise required by law.

11 (6) Made as otherwise authorized by the commissioner in  
12 writing.

13 (b) Any director, officer, employee, attorney, accountant, or  
14 consultant that discloses confidential information in a manner other  
15 than allowed by this section shall be liable for a civil penalty not  
16 to exceed fifty thousand dollars (\$50,000). The commissioner may  
17 impose a penalty under this section in accordance with the  
18 procedures set forth in Section 216.3.

19 283. Every licensee shall make and file with the commissioner  
20 whenever required by him or her a report in any form as the  
21 commissioner may prescribe and verified in any manner the  
22 commissioner prescribes, showing its financial condition and any  
23 other information as the commissioner may require at the close of  
24 business on any day designated by him or her. Any verification  
25 shall state that each of the officers making the verification has a  
26 personal knowledge of the matters in the report and that each of  
27 them believes that each statement in the report is true.

28 284. The commissioner shall call for the report specified in  
29 Section 283 from all licensees at least four times each year upon  
30 dates selected by the commissioner.

31 285. The commissioner may at any time require any licensee  
32 to make and file with him or her a special report furnishing any  
33 information as the commissioner may specify when necessary to  
34 inform him or her fully of the actual financial condition and all  
35 other affairs of the licensee. The reports shall be in the form and  
36 filed on a date prescribed by the commissioner and shall, if required  
37 by the commissioner, be verified in any manner that he or she  
38 prescribes.

1 286. Every licensee shall keep its corporate records, financial  
2 records, and books of account in words and figures of the English  
3 language and in form satisfactory to the commissioner.

4 287. Every licensee shall notify the commissioner of any  
5 change in the managing officers of the licensee.

6 288. (a) Each report required under this article, or under any  
7 other provision of law administered by the commissioner, shall be  
8 filed with the commissioner at the time that the commissioner may  
9 require. If any licensee fails to make any required report at the  
10 time specified by the commissioner or fails to include therein any  
11 matter required by this article, any provision of law administered  
12 by the commissioner, or by the commissioner, it shall be liable to  
13 the people of this state in the sum of not more than one hundred  
14 dollars (\$100) for each day that the report is delayed or withheld  
15 by the failure or neglect of the licensee.

16 (b) The provisions of Section 216.3 shall not apply to this  
17 section.

18 289. (a) Every licensee shall file with the commissioner one  
19 copy of all material filed by the licensee with any applicable federal  
20 financial institutions regulatory agency, law enforcement agency,  
21 or other federal agency that is required to be filed by law or order  
22 of the agency.

23 (b) Each copy required to be filed pursuant to subdivision (a)  
24 shall be filed with the commissioner on or before the date upon  
25 which the original is filed with the federal regulatory agency and  
26 shall be available for inspection by the public except to the extent  
27 the information contained therein is accorded confidential treatment  
28 under federal law or regulations. That material shall be open for  
29 inspection by the Attorney General.

30 290. Any person intentionally making a false statement in any  
31 report required to be rendered under this article or other provision  
32 of law administered by the commissioner is guilty of perjury.

33 SEC. 6. Section 1757 of the Financial Code is amended to read:

34 1757. (a) Whenever the commissioner calls for a report under  
35 ~~Section 1934~~ 283 from commercial banks organized under the  
36 laws of this state, the commissioner shall call for a report from  
37 each foreign (other nation) bank that is licensed to transact business  
38 in this state.

39 (b) (1) A foreign (other nation) bank that is licensed to transact  
40 business in this state shall prominently display in the lobby of each

1 agency and branch office, except an automated teller machine  
2 branch office (as defined in Section 550), a notice that any person  
3 may obtain a financial report from the bank. The notice shall  
4 include the address and telephone number of the person or office  
5 to be contacted for a financial report. The bank shall, promptly  
6 after receiving a request for a financial report, mail or otherwise  
7 furnish the financial report to the requester. The first financial  
8 report shall be provided without charge.

9 (2) The financial report called for in this subdivision shall  
10 contain either (A) the information that the commissioner may  
11 require by regulation or (B) in the absence of a regulation, the last  
12 balance sheet and income statement, each without any schedules,  
13 that the bank filed with the commissioner pursuant to Section ~~1931~~  
14 ~~283~~.

15 SEC. 7. Section 1909 of the Financial Code is repealed.

16 ~~1909. (a) In this section, "governmental agency" includes,~~  
17 ~~without limitation, any agency of this state, of any other state of~~  
18 ~~the United States, of the United States, or of any foreign nation.~~

19 ~~(b) The commissioner may furnish information to a~~  
20 ~~governmental agency that regulates financial institutions.~~

21 ~~(c) The commissioner may furnish to a governmental agency~~  
22 ~~that administers a loan guarantee or similar program, information~~  
23 ~~relating to a person who participates in the program.~~

24 ~~(d) The commissioner may furnish to a governmental agency~~  
25 ~~that regulates business activities, other than the type described in~~  
26 ~~subdivision (b), information relating to:~~

27 ~~(1) A suspected violation of a law administered by the agency.~~

28 ~~(2) A person involved in an application to the agency for a~~  
29 ~~license, approval, or other authorization.~~

30 ~~(e) The commissioner may furnish to a governmental agency~~  
31 ~~that is a law enforcement agency information relating to a suspected~~  
32 ~~crime.~~

33 ~~(f) The commissioner may furnish information to any person~~  
34 ~~who provides share insurance or guaranty of the shares of a credit~~  
35 ~~union in accordance with Section ~~14858, 16004, or 16503~~ of the~~  
36 ~~Financial Code.~~

37 ~~(g) This section does not prescribe the only circumstances under~~  
38 ~~which the commissioner may furnish information.~~

39 SEC. 8. Section 1930 of the Financial Code is repealed.

1     ~~1930. Every bank and every trust company shall make and file~~  
2 ~~with the commissioner whenever required by him or her a report~~  
3 ~~in such form as he or she may prescribe, verified by two of its~~  
4 ~~principal officers, showing its financial condition and such other~~  
5 ~~information as the commissioner may require at the close of~~  
6 ~~business on any past day designated by him or her. The verification~~  
7 ~~shall state that each of the officers making it has a personal~~  
8 ~~knowledge of the matters in the report and that each of them~~  
9 ~~believes that each statement in the report is true.~~

10     SEC. 9. Section 1931 of the Financial Code is repealed.

11     ~~1931. The commissioner shall call for the report specified in~~  
12 ~~Section 1930 from all California state banks and trust companies~~  
13 ~~at least three times each year, and for at least three times each year~~  
14 ~~shall designate as the day as of which the reports shall be made~~  
15 ~~the day designated by the Comptroller of the Currency for reports~~  
16 ~~from national banking associations.~~

17     SEC. 10. Section 1934 of the Financial Code is repealed.

18     ~~1934. The commissioner may at any time require any bank or~~  
19 ~~trust company to make and file with him or her a special report~~  
20 ~~furnishing such information as he or she may specify when~~  
21 ~~necessary to inform him or her fully of the actual financial~~  
22 ~~condition and affairs of the bank or trust company.~~

23     SEC. 11. Section 1935 of the Financial Code is amended to  
24 read:

25     1935. (a) A California state bank shall prominently display in  
26 the lobby of its main office and each branch office, except an  
27 automated teller machine branch office, as defined in Section 550,  
28 a notice that any person may obtain a financial report from the  
29 bank. The notice shall include the address and telephone number  
30 of the person or office to be contacted for a financial report. The  
31 bank shall, promptly after receiving a request for a financial report,  
32 mail or otherwise furnish the financial report to the requester. The  
33 first financial report shall be provided without charge.

34     (b) The financial report called for in this section shall contain  
35 either (1) the information that the commissioner may require by  
36 regulation or (2) in the absence of a regulation, the last balance  
37 sheet and income statement, each without any schedules, that the  
38 bank filed with the commissioner pursuant to ~~Section 1931~~ 283.

39     SEC. 12. Section 1936 of the Financial Code is repealed.

1 ~~1936. Every California state bank shall keep its corporate~~  
2 ~~records, financial records, and books of account in words and~~  
3 ~~figures of the English language and in form satisfactory to the~~  
4 ~~commissioner.~~

5 SEC. 13. Section 1937 of the Financial Code is repealed.

6 ~~1937. Any person intentionally making a false statement in~~  
7 ~~any report required to be rendered under this article is guilty of~~  
8 ~~perjury.~~

9 SEC. 14. Section 1938 of the Financial Code is repealed.

10 ~~1938. (a) Each report required under this article, Chapter 13.5~~  
11 ~~(commencing with Section 1700), or Chapter 22 (commencing~~  
12 ~~with Section 3800) shall be filed with the commissioner at the time~~  
13 ~~that the commissioner may by regulation or order require. If any~~  
14 ~~bank, trust company, or foreign bank fails to make any report~~  
15 ~~required by this article, Chapter 13.5 (commencing with Section~~  
16 ~~1700), or Chapter 22 (commencing with Section 3800) at the time~~  
17 ~~specified by the commissioner or fails to include therein any matter~~  
18 ~~required by this article, Chapter 13.5 (commencing with Section~~  
19 ~~1700), or Chapter 22 (commencing with Section 3800) or by the~~  
20 ~~commissioner, it shall be liable to the people of this state in the~~  
21 ~~sum of not more than one hundred dollars (\$100) for each day that~~  
22 ~~the report is delayed or withheld by the failure or neglect of the~~  
23 ~~bank, trust company, or foreign bank.~~

24 ~~(b) The provisions of Section 216.3 shall not apply to this~~  
25 ~~section.~~

26 SEC. 15. Section 1939 of the Financial Code is repealed.

27 ~~1939. (a) Every bank shall file with the commissioner one~~  
28 ~~copy of all material filed by such bank with the Board of Governors~~  
29 ~~of the Federal Reserve System or the Federal Deposit Insurance~~  
30 ~~Corporation pursuant to Section 78(l) of Title 15, United States~~  
31 ~~Code, and Section 1817(j) of Title 12, United States Code, and~~  
32 ~~regulations issued thereunder.~~

33 ~~(b) Every bank which is required to file information with the~~  
34 ~~appropriate federal banking agency pursuant to Section 907 of the~~  
35 ~~International Lending Supervision Act (12 U.S.C. Sec. 3907), shall~~  
36 ~~file with the commissioner one copy of all material filed with the~~  
37 ~~federal banking agency pursuant to the act.~~

38 ~~(c) Each copy required to be filed pursuant to subdivisions (a)~~  
39 ~~and (b) shall be filed with the commissioner on or before the date~~  
40 ~~upon which the original is filed with the Board of Governors of~~

1 ~~the Federal Reserve System or the Federal Deposit Insurance~~  
 2 ~~Corporation, and shall be available for inspection by the public~~  
 3 ~~except to the extent the information contained therein is accorded~~  
 4 ~~confidential treatment under federal law or regulations issued~~  
 5 ~~thereunder by the Board of Governors of the Federal Reserve~~  
 6 ~~System or the Federal Deposit Insurance Corporation. All such~~  
 7 ~~material shall be open for inspection by the Attorney General.~~

8 SEC. 16. Section 1945 of the Financial Code is repealed.  
 9 ~~1945. Every bank shall notify the commissioner of any change~~  
 10 ~~in the managing officer of the bank.~~

11 SEC. 17. Section 6254.5 of the Government Code is amended  
 12 to read:

13 6254.5. Notwithstanding any other provisions of the law,  
 14 whenever a state or local agency discloses a public record which  
 15 is otherwise exempt from this chapter, to any member of the public,  
 16 this disclosure shall constitute a waiver of the exemptions specified  
 17 in Sections 6254, 6254.7, or other similar provisions of law. For  
 18 purposes of this section, "agency" includes a member, agent,  
 19 officer, or employee of the agency acting within the scope of his  
 20 or her membership, agency, office, or employment.

21 This section, however, shall not apply to disclosures:

22 (a) Made pursuant to the Information Practices Act (commencing  
 23 with Section 1798 of the Civil Code) or discovery proceedings.

24 (b) Made through other legal proceedings or as otherwise  
 25 required by law.

26 (c) Within the scope of disclosure of a statute which limits  
 27 disclosure of specified writings to certain purposes.

28 (d) Not required by law, and prohibited by formal action of an  
 29 elected legislative body of the local agency which retains the  
 30 writings.

31 (e) Made to any governmental agency which agrees to treat the  
 32 disclosed material as confidential. Only persons authorized in  
 33 writing by the person in charge of the agency shall be permitted  
 34 to obtain the information. Any information obtained by the agency  
 35 shall only be used for purposes which are consistent with existing  
 36 law.

37 (f) Of records relating to a financial institution or an affiliate  
 38 thereof, if the disclosures are made to the financial institution or  
 39 affiliate by a state agency responsible for the regulation or  
 40 supervision of the financial institution or affiliate.

1 (g) Of records relating to any person that is subject to the  
2 jurisdiction of the Department of Corporations, if the disclosures  
3 are made to the person that is the subject of the records for the  
4 purpose of corrective action by that person, or if a corporation, to  
5 an officer, director, or other key personnel of the corporation for  
6 the purpose of corrective action, or to any other person to the extent  
7 necessary to obtain information from that person for the purpose  
8 of an investigation by the Department of Corporations.

9 (h) Made by the Commissioner of Financial Institutions under  
10 Section ~~1909~~ 280, 8009, or 18396 of the Financial Code.

11 (i) Of records relating to any person that is subject to the  
12 jurisdiction of the Department of Managed Health Care, if the  
13 disclosures are made to the person that is the subject of the records  
14 for the purpose of corrective action by that person, or if a  
15 corporation, to an officer, director, or other key personnel of the  
16 corporation for the purpose of corrective action, or to any other  
17 person to the extent necessary to obtain information from that  
18 person for the purpose of an investigation by the Department of  
19 Managed Health Care.

20 SEC. 18. Section 6276.06 of the Government Code is amended  
21 to read:

22 6276.06. Bank and Corporation Tax, disclosure of information,  
23 Article 2 (commencing with Section 19542), Chapter 7, Part 10.2,  
24 Division 2, Revenue and Taxation Code.

25 Bank employees, confidentiality of criminal history information,  
26 Sections 777.5 and 4990, Financial Code.

27 Bank reports, confidentiality of, Section ~~1939~~ 289, Financial  
28 Code.

29 Basic Property Insurance Inspection and Placement Plan,  
30 confidential reports, Section 10097, Insurance Code.

31 Beef Council of California, confidentiality of fee transactions  
32 information, Section 64691.1, Food and Agricultural Code.

33 Bids, confidentiality of, Section 10304, Public Contract Code.

34 Birth, death, and marriage licenses, confidential information  
35 contained in, Sections 102100 and 102110, Health and Safety  
36 Code.

37 Birth defects, monitoring, confidentiality of information  
38 collected, Section 103850, Health and Safety Code.

39 Birth, live, confidential portion of certificate, Sections 102430,  
40 102475, 103525, and 103590, Health and Safety Code.

1 Blood tests, confidentiality of hepatitis and AIDS carriers,  
2 Section 1603.1, Health and Safety Code.

3 Blood-alcohol percentage test results, vehicular offenses,  
4 confidentiality of, Section 1804, Vehicle Code.

5 Bureau of Fraudulent Claims, investigations or publication of  
6 information, Section 12991, Insurance Code.

7 Business and professions licensee exemption for social security  
8 number, Section 30, Business and Professions Code.

9 SEC. 19. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.

O