

**ASSEMBLY BILL**

**No. 2763**

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**Introduced by Committee on Accountability and Administrative  
Review**

March 26, 2014

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An act to amend Sections 10176.1 and 19869 of the Business and Professions Code, to amend Sections 1936.01, 2924.12, 2924.17, 2924.19, and 2924.20 of the Civil Code, to amend Sections 580d and 684.115 of the Code of Civil Procedure, to amend Sections 163, 201, 2510, 2601, 5122, 7122, 9122, and 12302 of the Corporations Code, to amend Sections 371, 380, 1514, 2105, 5106, 14381, 14382, 14652.5, 18002.5, 18022.5, and 23001 of the Financial Code, to amend Sections 6254.5, 7465, 7474, 7480, 13975.2, 13995.40.5, 51298, 65040.9, and 66620 of, to amend the heading of Part 4.5 (commencing with Section 13975) of Division 3 of Title 2 of, to amend and renumber Sections 13975.1 and 13978.6 of, to repeal Chapter 5 (commencing with Section 13999) of Part 4.7 of Division 3 of Title 2 of, and to repeal Chapter 9.7 (commencing with Section 8790) of Division 1 of Title 2 of, the Government Code, to amend Section 44272.5 of the Health and Safety Code, to amend Sections 12414.31 and 12710 of the Insurance Code, to amend Section 2802 of the Penal Code, and to amend Section 22003 of, and to repeal Section 22553.2 of, the Public Utilities Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2763, as introduced, Committee on Accountability and Administrative Review. State government operations.

(1) Existing law and the Governor's Reorganization Plan No. 2 of 2012 (GRP 2), effective on July 3, 2012, and operative on July 1, 2013,

assigns and reorganizes the functions of state government among executive officers, agencies, and other state entities.

This bill would generally enact conforming changes to statutes to reflect the assignment and reorganization of the functions of state government within the newly established structure of state government. This bill would reallocate specified duties of reorganized and abolished state entities and their officers to established state entities and officers, including, but not limited to, reallocating specified duties of the abolished Business, Transportation and Housing Agency and its secretary to the Governor's Office of Business and Economic Development, the Transportation Agency and its secretary, and the Business, Consumer Services, and Housing Agency and its secretary. This bill would further reallocate certain existing duties to the Department of Business Oversight and its commissioner and other specified duties from the California Gambling Control Commission to the Department of Justice.

(2) The Space Enterprise Development Act requires the Business, Transportation and Housing Agency, an abolished agency, to implement a space enterprise development program to foster activities that increase the competitiveness of space enterprise in California.

This bill would repeal the act.

(3) Existing law establishes the California Collider Commission composed of the Governor, the Lieutenant Governor, the Treasurer, the President of the University of California, the Director of Finance, and the Secretary of Business, Transportation and Housing, an abolished state office. Existing law creates the commission for the purpose of representing the state before various entities in federal government concerning a proposal by the United States Department of Energy to construct a particle accelerator, known as a superconducting super collider. Existing law also authorizes land acquisition, financing alternatives, including an authorization for a bond issuance, and employment training and other support programs to site and construct the federal superconducting super collider within the state.

This bill would repeal these provisions.

(4) Existing law requires, subject to a specified condition and relating in part to the Secretary of Business, Transportation and Housing, an abolished state office, the advertised rate for a rental car to include certain charges.

This bill would remove that condition.

(5) This bill would make technical, nonsubstantive, and conforming changes.

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

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

1 SECTION 1. Section 10176.1 of the Business and Professions  
2 Code is amended to read:  
3 10176.1. (a) (1) Whenever the commissioner takes any  
4 enforcement or disciplinary action against a licensee, and the  
5 enforcement or disciplinary action is related to escrow services  
6 provided pursuant to paragraph (4) of subdivision (a) of Section  
7 17006 of the Financial Code, upon the action becoming final the  
8 commissioner shall notify the Insurance Commissioner and the  
9 Commissioner of Business Oversight of the action or actions taken.  
10 The purpose of this notification is to alert the departments that  
11 enforcement or disciplinary action has been taken, if the licensee  
12 seeks or obtains employment with entities regulated by the  
13 departments.  
14 (2) The commissioner shall provide the Insurance Commissioner  
15 and the Commissioner of Business Oversight, in addition to the  
16 notification of the action taken, with a copy of the written  
17 accusation, statement of issues, or order issued or filed in the matter  
18 and, at the request of the Insurance Commissioner or the  
19 Commissioner of Business Oversight, with any underlying factual  
20 material relevant to the enforcement or disciplinary action. Any  
21 confidential information provided by the commissioner to the  
22 Insurance Commissioner or the Commissioner of Business  
23 Oversight shall not be made public pursuant to this section.  
24 Notwithstanding any other provision of law, the disclosure of any  
25 underlying factual material to the Insurance Commissioner or the  
26 Commissioner of Business Oversight shall not operate as a waiver  
27 of confidentiality or any privilege that the commissioner may  
28 assert.  
29 (b) The commissioner shall establish and maintain, on the Web  
30 site maintained by the Bureau of Real Estate, a database of its  
31 licensees, including those who have been subject to any  
32 enforcement or disciplinary action that triggers the notification  
33 requirements of this section. The database shall also contain a

1 direct link to the databases, described in Section 17423.1 of the  
2 Financial Code and Section 12414.31 of the Insurance Code and  
3 required to be maintained on the Web sites of the Department of  
4 ~~Corporations~~ *Business Oversight* and the Department of Insurance,  
5 respectively, of persons who have been subject to enforcement or  
6 disciplinary action for malfeasance or misconduct related to the  
7 escrow industry by the Insurance Commissioner and the  
8 Commissioner of Business Oversight.

9 (c) There shall be no liability on the part of, and no cause of  
10 action of any nature shall arise against, the State of California, the  
11 Bureau of Real Estate, the Real Estate Commissioner, any other  
12 state agency, or any officer, agent, employee, consultant, or  
13 contractor of the state, for the release of any false or unauthorized  
14 information pursuant to this section, unless the release of that  
15 information was done with knowledge and malice, or for the failure  
16 to release any information pursuant to this section.

17 SEC. 2. Section 19869 of the Business and Professions Code  
18 is amended to read:

19 19869. A request for withdrawal of any application may be  
20 made at any time prior to final action upon the application by the  
21 chief by the filing of a written request to withdraw with the  
22 ~~commission.~~ *department*. For the purposes of this section, final  
23 action by the department means a final determination by the chief  
24 regarding his or her recommendation on the application to the  
25 commission. The commission shall not grant the request unless  
26 the applicant has established that withdrawal of the application  
27 would be consistent with the public interest and the policies of this  
28 chapter. If a request for withdrawal is denied, the department may  
29 go forward with its investigation and make a recommendation to  
30 the commission upon the application, and the commission may  
31 act upon the application as if no request for withdrawal had been  
32 made. If a request for withdrawal is granted with prejudice, the  
33 applicant thereafter shall be ineligible to renew its application until  
34 the expiration of one year from the date of the withdrawal. Unless  
35 the commission otherwise directs, no fee or other payment relating  
36 to any application is refundable by reason of withdrawal of an  
37 application.

38 SEC. 3. Section 1936.01 of the Civil Code is amended to read:

39 1936.01. (a) For the purpose of this section, the following  
40 definitions shall apply:

1 (1) “Airport concession fee” means a charge collected by a  
2 rental company from a renter that is the renter’s proportionate  
3 share of the amount paid by the rental company to the owner or  
4 operator of an airport for the right or privilege of conducting a  
5 vehicle rental business on the airport’s premises.

6 (2) “Quote” means an estimated cost of rental provided by a  
7 rental company or a third party to a potential customer by  
8 telephone, in-person, computer-transmission, or other means, that  
9 is based on information provided by the potential customer and  
10 used to generate an estimated cost of rental, including, but not  
11 limited to, any of the following: potential dates of rental, locations,  
12 or classes of car.

13 (3) “Tourism commission assessment” means the charge  
14 collected by a rental company from a renter that has been  
15 established by the California Travel and Tourism Commission  
16 pursuant to Section 13995.65 of the Government Code.

17 (b) Notwithstanding subdivision (n) of Section 1936, the  
18 following provisions shall apply:

19 (1) A rental company shall only advertise a rental rate that  
20 includes the entire amount, except taxes, a customer facility charge,  
21 if any, and a mileage charge, if any, that a renter must pay to hire  
22 or lease the vehicle for the period of time to which the rental rate  
23 applies.

24 (2) When providing a quote, or imposing charges for a rental,  
25 the rental company may separately state the rental rate, taxes,  
26 customer facility charge, if any, airport concession fee, if any,  
27 tourism commission assessment, if any, and a mileage charge, if  
28 any, that a renter must pay to hire or lease the vehicle for the period  
29 of time to which the rental rate applies. A rental company may not  
30 charge in addition to the rental rate, taxes, a customer facility  
31 charge, if any, airport concession fee, if any, tourism commission  
32 assessment, if any, and a mileage charge, if any, any fee that must  
33 be paid by the renter as a condition of hiring or leasing the vehicle,  
34 such as, but not limited to, required fuel or airport surcharges other  
35 than customer facility charges and airport concession fees.

36 (3) If customer facility charges, airport concession fees, or  
37 tourism commission assessments are imposed, the rental company  
38 shall do each of the following:

39 (A) At the time the quote is given, provide the person receiving  
40 the quote with a good faith estimate of the rental rate, taxes,

1 customer facility charge, if any, airport concession fee, if any, and  
2 tourism commission assessment, if any, as well as the total charges  
3 for the entire rental. The total charges, if provided on an Internet  
4 Web site, shall be displayed in a typeface at least as large as any  
5 rental rate disclosed on that page and shall be provided on a page  
6 that the person receiving the quote may reach by following links  
7 through no more than two Internet Web site pages, including the  
8 page on which the rental rate is first provided. The good faith  
9 estimate may exclude mileage charges and charges for optional  
10 items that cannot be determined prior to completing the reservation  
11 based upon the information provided by the person.

12 (B) At the time and place the rental commences, clearly and  
13 conspicuously disclose in the rental contract, or that portion of the  
14 contract that is provided to the renter, the total of the rental rate,  
15 taxes, customer facility charge, if any, airport concession fee, if  
16 any, and tourism commission assessment, if any, for the entire  
17 rental, exclusive of charges that cannot be determined at the time  
18 the rental commences. Charges imposed pursuant to this  
19 subparagraph shall be no more than the amount of the quote  
20 provided in a confirmed reservation, unless the person changes  
21 the terms of the rental contract subsequent to making the  
22 reservation.

23 (C) Provide each person, other than those persons within the  
24 rental company, offering quotes to actual or prospective customers  
25 access to information about customer facility charges, airport  
26 concession fees, and tourism commission assessments as well as  
27 access to information about when those charges apply. Any person  
28 providing quotes to actual or prospective customers for the hire  
29 or lease of a vehicle from a rental company shall provide the quotes  
30 in the manner described in subparagraph (A).

31 (4) In addition to the rental rate, taxes, customer facility charges,  
32 if any, airport concession fees, if any, tourism commission  
33 assessments, if any, and mileage charges, if any, a rental company  
34 may charge for an item or service provided in connection with a  
35 particular rental transaction if the renter could have avoided  
36 incurring the charge by choosing not to obtain or utilize the  
37 optional item or service. Items and services for which the rental  
38 company may impose an additional charge, include, but are not  
39 limited to, optional insurance and accessories requested by the  
40 renter, service charges incident to the renter's optional return of

1 the vehicle to a location other than the location where the vehicle  
2 was hired or leased, and charges for refueling the vehicle at the  
3 conclusion of the rental transaction in the event the renter did not  
4 return the vehicle with as much fuel as was in the fuel tank at the  
5 beginning of the rental. A rental company also may impose an  
6 additional charge based on reasonable age criteria established by  
7 the rental company.

8 (5) A rental company may not charge any fee for authorized  
9 drivers in addition to the rental charge for an individual renter.

10 (6) If a rental company states a rental rate in print advertisement  
11 or in a telephonic, in-person, or computer-transmitted quote, the  
12 rental company shall clearly disclose in that advertisement or quote  
13 the terms of any mileage conditions relating to the rental rate  
14 disclosed in the advertisement or quote, including, but not limited  
15 to, to the extent applicable, the amount of mileage and gas charges,  
16 the number of miles for which no charges will be imposed, and a  
17 description of geographic driving limitations within the United  
18 States and Canada.

19 (7) (A) When a rental rate is stated in an advertisement, in  
20 connection with a car rental at an airport where a customer facility  
21 charge is imposed, the rental company shall clearly disclose the  
22 existence and amount of the customer facility charge. For the  
23 purposes of this subparagraph, advertisements include radio,  
24 television, other electronic media, and print advertisements. If the  
25 rental rate advertisement is intended to include transactions at more  
26 than one airport imposing a customer facility charge, a range of  
27 charges may be stated in the advertisement. However, all rental  
28 rate advertisements that include car rentals at airport destinations  
29 shall clearly and conspicuously include a toll-free telephone  
30 number whereby a customer can be told the specific amount of  
31 the customer facility charge to which the customer will be  
32 obligated.

33 (B) If any person or entity other than a rental car company,  
34 including a passenger carrier or a seller of travel services, advertises  
35 a rental rate for a car rental at an airport where a customer facility  
36 charge is imposed, that person or entity shall, provided they are  
37 provided with information about the existence and amount of the  
38 charge, to the extent not specifically prohibited by federal law,  
39 clearly disclose the existence and amount of the charge. If a rental  
40 car company provides the person or entity with rental rate and

1 customer facility charge information, the rental car company is  
2 not responsible for the failure of that person or entity to comply  
3 with this subparagraph.

4 (8) If a rental company delivers a vehicle to a renter at a location  
5 other than the location where the rental company normally carries  
6 on its business, the rental company may not charge the renter any  
7 amount for the rental for the period before the delivery of the  
8 vehicle. If a rental company picks up a rented vehicle from a renter  
9 at a location other than the location where the rental company  
10 normally carries on its business, the rental company may not charge  
11 the renter any amount for the rental for the period after the renter  
12 notifies the rental company to pick up the vehicle.

13 (9) Except as otherwise permitted pursuant to the customer  
14 facility charge, a rental company may not separately charge, in  
15 addition to the rental rate, a fee for transporting the renter to the  
16 location where the rented vehicle will be delivered to the renter.

17 (c) A renter may bring an action against a rental company for  
18 the recovery of damages and appropriate equitable relief for a  
19 violation of this section. The prevailing party shall be entitled to  
20 recover reasonable attorney's fees and costs.

21 (d) Any waiver of any of the provisions of this section shall be  
22 void and unenforceable as contrary to public policy.

23 ~~(e) This section shall become operative only if the Secretary of  
24 Business, Transportation and Housing provides notice to the  
25 Legislature and the Secretary of State and posts notice on its  
26 Internet Web site that the conditions described in Section 13995.92  
27 of the Government Code have been satisfied.~~

28 SEC. 4. Section 2924.12 of the Civil Code, as added by Section  
29 16 of Chapter 86 of the Statutes of 2012, is amended to read:

30 2924.12. (a) (1) If a trustee's deed upon sale has not been  
31 recorded, a borrower may bring an action for injunctive relief to  
32 enjoin a material violation of Section 2923.55, 2923.6, 2923.7,  
33 2924.9, 2924.10, 2924.11, or 2924.17.

34 (2) Any injunction shall remain in place and any trustee's sale  
35 shall be enjoined until the court determines that the mortgage  
36 servicer, mortgagee, trustee, beneficiary, or authorized agent has  
37 corrected and remedied the violation or violations giving rise to  
38 the action for injunctive relief. An enjoined entity may move to  
39 dissolve an injunction based on a showing that the material  
40 violation has been corrected and remedied.

1 (b) After a trustee’s deed upon sale has been recorded, a  
2 mortgage servicer, mortgagee, trustee, beneficiary, or authorized  
3 agent shall be liable to a borrower for actual economic damages  
4 pursuant to Section 3281, resulting from a material violation of  
5 Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or  
6 2924.17 by that mortgage servicer, mortgagee, trustee, beneficiary,  
7 or authorized agent where the violation was not corrected and  
8 remedied prior to the recordation of the trustee’s deed upon sale.  
9 If the court finds that the material violation was intentional or  
10 reckless, or resulted from willful misconduct by a mortgage  
11 servicer, mortgagee, trustee, beneficiary, or authorized agent, the  
12 court may award the borrower the greater of treble actual damages  
13 or statutory damages of fifty thousand dollars (\$50,000).

14 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or  
15 authorized agent shall not be liable for any violation that it has  
16 corrected and remedied prior to the recordation of a trustee’s deed  
17 upon sale, or that has been corrected and remedied by third parties  
18 working on its behalf prior to the recordation of a trustee’s deed  
19 upon sale.

20 (d) A violation of Section 2923.55, 2923.6, 2923.7, 2924.9,  
21 2924.10, 2924.11, or 2924.17 by a person licensed by the  
22 Department of Corporations, ~~Department of Financial Institutions,~~  
23 ~~or Department~~ *Business Oversight or the Bureau* of Real Estate  
24 shall be deemed to be a violation of that person’s licensing law.

25 (e) No violation of this article shall affect the validity of a sale  
26 in favor of a bona fide purchaser and any of its encumbrancers for  
27 value without notice.

28 (f) A third-party encumbrancer shall not be relieved of liability  
29 resulting from violations of Section 2923.55, 2923.6, 2923.7,  
30 2924.9, 2924.10, 2924.11, or 2924.17 committed by that third-party  
31 encumbrancer, that occurred prior to the sale of the subject property  
32 to the bona fide purchaser.

33 (g) A signatory to a consent judgment entered in the case entitled  
34 United States of America et al. v. Bank of America Corporation  
35 et al., filed in the United States District Court for the District of  
36 Columbia, case number 1:12-cv-00361 RMC, that is in compliance  
37 with the relevant terms of the Settlement Term Sheet of that  
38 consent judgment with respect to the borrower who brought an  
39 action pursuant to this section while the consent judgment is in

1 effect shall have no liability for a violation of Section 2923.55,  
2 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or 2924.17.

3 (h) The rights, remedies, and procedures provided by this section  
4 are in addition to and independent of any other rights, remedies,  
5 or procedures under any other law. Nothing in this section shall  
6 be construed to alter, limit, or negate any other rights, remedies,  
7 or procedures provided by law.

8 (i) A court may award a prevailing borrower reasonable  
9 attorney's fees and costs in an action brought pursuant to this  
10 section. A borrower shall be deemed to have prevailed for purposes  
11 of this subdivision if the borrower obtained injunctive relief or  
12 was awarded damages pursuant to this section.

13 (j) This section shall not apply to entities described in  
14 subdivision (b) of Section 2924.18.

15 (k) This section shall remain in effect only until January 1,  
16 2018, and as of that date is repealed, unless a later enacted statute,  
17 that is enacted before January 1, 2018, deletes or extends that date.

18 SEC. 5. Section 2924.12 of the Civil Code, as added by Section  
19 16 of Chapter 87 of the Statutes of 2012, is amended to read:

20 2924.12. (a) (1) If a trustee's deed upon sale has not been  
21 recorded, a borrower may bring an action for injunctive relief to  
22 enjoin a material violation of Section 2923.55, 2923.6, 2923.7,  
23 2924.9, 2924.10, 2924.11, or 2924.17.

24 (2) Any injunction shall remain in place and any trustee's sale  
25 shall be enjoined until the court determines that the mortgage  
26 servicer, mortgagee, trustee, beneficiary, or authorized agent has  
27 corrected and remedied the violation or violations giving rise to  
28 the action for injunctive relief. An enjoined entity may move to  
29 dissolve an injunction based on a showing that the material  
30 violation has been corrected and remedied.

31 (b) After a trustee's deed upon sale has been recorded, a  
32 mortgage servicer, mortgagee, trustee, beneficiary, or authorized  
33 agent shall be liable to a borrower for actual economic damages  
34 pursuant to Section 3281, resulting from a material violation of  
35 Section 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or  
36 2924.17 by that mortgage servicer, mortgagee, trustee, beneficiary,  
37 or authorized agent where the violation was not corrected and  
38 remedied prior to the recordation of the trustee's deed upon sale.  
39 If the court finds that the material violation was intentional or  
40 reckless, or resulted from willful misconduct by a mortgage

1 servicer, mortgagee, trustee, beneficiary, or authorized agent, the  
2 court may award the borrower the greater of treble actual damages  
3 or statutory damages of fifty thousand dollars (\$50,000).

4 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or  
5 authorized agent shall not be liable for any violation that it has  
6 corrected and remedied prior to the recordation of a trustee's deed  
7 upon sale, or that has been corrected and remedied by third parties  
8 working on its behalf prior to the recordation of a trustee's deed  
9 upon sale.

10 (d) A violation of Section 2923.55, 2923.6, 2923.7, 2924.9,  
11 2924.10, 2924.11, or 2924.17 by a person licensed by the  
12 Department of Corporations, Department of Financial Institutions,  
13 or Department *Business Oversight or the Bureau* of Real Estate  
14 shall be deemed to be a violation of that person's licensing law.

15 (e) No violation of this article shall affect the validity of a sale  
16 in favor of a bona fide purchaser and any of its encumbrancers for  
17 value without notice.

18 (f) A third-party encumbrancer shall not be relieved of liability  
19 resulting from violations of Section 2923.55, 2923.6, 2923.7,  
20 2924.9, 2924.10, 2924.11, or 2924.17 committed by that third-party  
21 encumbrancer, that occurred prior to the sale of the subject property  
22 to the bona fide purchaser.

23 (g) A signatory to a consent judgment entered in the case entitled  
24 United States of America et al. v. Bank of America Corporation  
25 et al., filed in the United States District Court for the District of  
26 Columbia, case number 1:12-cv-00361 RMC, that is in compliance  
27 with the relevant terms of the Settlement Term Sheet of that  
28 consent judgment with respect to the borrower who brought an  
29 action pursuant to this section while the consent judgment is in  
30 effect shall have no liability for a violation of Section 2923.55,  
31 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, or 2924.17.

32 (h) The rights, remedies, and procedures provided by this section  
33 are in addition to and independent of any other rights, remedies,  
34 or procedures under any other law. Nothing in this section shall  
35 be construed to alter, limit, or negate any other rights, remedies,  
36 or procedures provided by law.

37 (i) A court may award a prevailing borrower reasonable  
38 attorney's fees and costs in an action brought pursuant to this  
39 section. A borrower shall be deemed to have prevailed for purposes

1 of this subdivision if the borrower obtained injunctive relief or  
2 was awarded damages pursuant to this section.

3 (j) This section shall not apply to entities described in  
4 subdivision (b) of Section 2924.18.

5 (k) This section shall remain in effect only until January 1,  
6 2018, and as of that date is repealed, unless a later enacted statute,  
7 that is enacted before January 1, 2018, deletes or extends that date.

8 SEC. 6. Section 2924.12 of the Civil Code, as added by Section  
9 17 of Chapter 86 of the Statutes of 2012, is amended to read:

10 2924.12. (a) (1) If a trustee’s deed upon sale has not been  
11 recorded, a borrower may bring an action for injunctive relief to  
12 enjoin a material violation of Section 2923.5, 2923.7, 2924.11, or  
13 2924.17.

14 (2) Any injunction shall remain in place and any trustee’s sale  
15 shall be enjoined until the court determines that the mortgage  
16 servicer, mortgagee, trustee, beneficiary, or authorized agent has  
17 corrected and remedied the violation or violations giving rise to  
18 the action for injunctive relief. An enjoined entity may move to  
19 dissolve an injunction based on a showing that the material  
20 violation has been corrected and remedied.

21 (b) After a trustee’s deed upon sale has been recorded, a  
22 mortgage servicer, mortgagee, trustee, beneficiary, or authorized  
23 agent shall be liable to a borrower for actual economic damages  
24 pursuant to Section 3281, resulting from a material violation of  
25 Section 2923.5, 2923.7, 2924.11, or 2924.17 by that mortgage  
26 servicer, mortgagee, trustee, beneficiary, or authorized agent where  
27 the violation was not corrected and remedied prior to the  
28 recordation of the trustee’s deed upon sale. If the court finds that  
29 the material violation was intentional or reckless, or resulted from  
30 willful misconduct by a mortgage servicer, mortgagee, trustee,  
31 beneficiary, or authorized agent, the court may award the borrower  
32 the greater of treble actual damages or statutory damages of fifty  
33 thousand dollars (\$50,000).

34 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or  
35 authorized agent shall not be liable for any violation that it has  
36 corrected and remedied prior to the recordation of the trustee’s  
37 deed upon sale, or that has been corrected and remedied by third  
38 parties working on its behalf prior to the recordation of the trustee’s  
39 deed upon sale.

1 (d) A violation of Section 2923.5, 2923.7, 2924.11, or 2924.17  
2 by a person licensed by the Department of ~~Corporations,~~  
3 ~~Department of Financial Institutions,~~ or Department *Business*  
4 *Oversight or the Bureau* of Real Estate shall be deemed to be a  
5 violation of that person's licensing law.

6 (e) No violation of this article shall affect the validity of a sale  
7 in favor of a bona fide purchaser and any of its encumbrancers for  
8 value without notice.

9 (f) A third-party encumbrancer shall not be relieved of liability  
10 resulting from violations of Section 2923.5, 2923.7, 2924.11, or  
11 2924.17 committed by that third-party encumbrancer, that occurred  
12 prior to the sale of the subject property to the bona fide purchaser.

13 (g) The rights, remedies, and procedures provided by this section  
14 are in addition to and independent of any other rights, remedies,  
15 or procedures under any other law. Nothing in this section shall  
16 be construed to alter, limit, or negate any other rights, remedies,  
17 or procedures provided by law.

18 (h) A court may award a prevailing borrower reasonable  
19 attorney's fees and costs in an action brought pursuant to this  
20 section. A borrower shall be deemed to have prevailed for purposes  
21 of this subdivision if the borrower obtained injunctive relief or  
22 was awarded damages pursuant to this section.

23 (i) This section shall become operative on January 1, 2018.

24 SEC. 7. Section 2924.12 of the Civil Code, as added by Section  
25 17 of Chapter 87 of the Statutes of 2012, is amended to read:

26 2924.12. (a) (1) If a trustee's deed upon sale has not been  
27 recorded, a borrower may bring an action for injunctive relief to  
28 enjoin a material violation of Section 2923.5, 2923.7, 2924.11, or  
29 2924.17.

30 (2) Any injunction shall remain in place and any trustee's sale  
31 shall be enjoined until the court determines that the mortgage  
32 servicer, mortgagee, trustee, beneficiary, or authorized agent has  
33 corrected and remedied the violation or violations giving rise to  
34 the action for injunctive relief. An enjoined entity may move to  
35 dissolve an injunction based on a showing that the material  
36 violation has been corrected and remedied.

37 (b) After a trustee's deed upon sale has been recorded, a  
38 mortgage servicer, mortgagee, trustee, beneficiary, or authorized  
39 agent shall be liable to a borrower for actual economic damages  
40 pursuant to Section 3281, resulting from a material violation of

1 Section 2923.5, 2923.7, 2924.11, or 2924.17 by that mortgage  
2 servicer, mortgagee, trustee, beneficiary, or authorized agent where  
3 the violation was not corrected and remedied prior to the  
4 recordation of the trustee's deed upon sale. If the court finds that  
5 the material violation was intentional or reckless, or resulted from  
6 willful misconduct by a mortgage servicer, mortgagee, trustee,  
7 beneficiary, or authorized agent, the court may award the borrower  
8 the greater of treble actual damages or statutory damages of fifty  
9 thousand dollars (\$50,000).

10 (c) A mortgage servicer, mortgagee, trustee, beneficiary, or  
11 authorized agent shall not be liable for any violation that it has  
12 corrected and remedied prior to the recordation of the trustee's  
13 deed upon sale, or that has been corrected and remedied by third  
14 parties working on its behalf prior to the recordation of the trustee's  
15 deed upon sale.

16 (d) A violation of Section 2923.5, 2923.7, 2924.11, or 2924.17  
17 by a person licensed by the Department of ~~Corporations,~~  
18 ~~Department of Financial Institutions, or Department~~ *Business*  
19 *Oversight or the Bureau* of Real Estate shall be deemed to be a  
20 violation of that person's licensing law.

21 (e) No violation of this article shall affect the validity of a sale  
22 in favor of a bona fide purchaser and any of its encumbrancers for  
23 value without notice.

24 (f) A third-party encumbrancer shall not be relieved of liability  
25 resulting from violations of Section 2923.5, 2923.7, 2924.11, or  
26 2924.17 committed by that third-party encumbrancer, that occurred  
27 prior to the sale of the subject property to the bona fide purchaser.

28 (g) The rights, remedies, and procedures provided by this section  
29 are in addition to and independent of any other rights, remedies,  
30 or procedures under any other law. Nothing in this section shall  
31 be construed to alter, limit, or negate any other rights, remedies,  
32 or procedures provided by law.

33 (h) A court may award a prevailing borrower reasonable  
34 attorney's fees and costs in an action brought pursuant to this  
35 section. A borrower shall be deemed to have prevailed for purposes  
36 of this subdivision if the borrower obtained injunctive relief or  
37 was awarded damages pursuant to this section.

38 (i) This section shall become operative on January 1, 2018.

39 SEC. 8. Section 2924.17 of the Civil Code, as added by Section  
40 20 of Chapter 86 of the Statutes of 2012, is amended to read:

1 2924.17. (a) A declaration recorded pursuant to Section 2923.5  
2 or, until January 1, 2018, pursuant to Section 2923.55, a notice of  
3 default, notice of sale, assignment of a deed of trust, or substitution  
4 of trustee recorded by or on behalf of a mortgage servicer in  
5 connection with a foreclosure subject to the requirements of Section  
6 2924, or a declaration or affidavit filed in any court relative to a  
7 foreclosure proceeding shall be accurate and complete and  
8 supported by competent and reliable evidence.

9 (b) Before recording or filing any of the documents described  
10 in subdivision (a), a mortgage servicer shall ensure that it has  
11 reviewed competent and reliable evidence to substantiate the  
12 borrower's default and the right to foreclose, including the  
13 borrower's loan status and loan information.

14 (c) Until January 1, 2018, any mortgage servicer that engages  
15 in multiple and repeated uncorrected violations of subdivision (b)  
16 in recording documents or filing documents in any court relative  
17 to a foreclosure proceeding shall be liable for a civil penalty of up  
18 to seven thousand five hundred dollars (\$7,500) per mortgage or  
19 deed of trust in an action brought by a government entity identified  
20 in Section 17204 of the Business and Professions Code, or in an  
21 administrative proceeding brought by the Department of  
22 ~~Corporations, Business Oversight or the Department Bureau~~ of  
23 Real Estate, ~~or the Department of Financial Institutions~~ against a  
24 respective licensee, in addition to any other remedies available to  
25 these entities. This subdivision shall be inoperative on January 1,  
26 2018.

27 SEC. 9. Section 2924.17 of the Civil Code, as added by Section  
28 20 of Chapter 87 of the Statutes of 2012, is amended to read:

29 2924.17. (a) A declaration recorded pursuant to Section 2923.5  
30 or, until January 1, 2018, pursuant to Section 2923.55, a notice of  
31 default, notice of sale, assignment of a deed of trust, or substitution  
32 of trustee recorded by or on behalf of a mortgage servicer in  
33 connection with a foreclosure subject to the requirements of Section  
34 2924, or a declaration or affidavit filed in any court relative to a  
35 foreclosure proceeding shall be accurate and complete and  
36 supported by competent and reliable evidence.

37 (b) Before recording or filing any of the documents described  
38 in subdivision (a), a mortgage servicer shall ensure that it has  
39 reviewed competent and reliable evidence to substantiate the

1 borrower’s default and the right to foreclose, including the  
 2 borrower’s loan status and loan information.

3 (c) Until January 1, 2018, any mortgage servicer that engages  
 4 in multiple and repeated uncorrected violations of subdivision (b)  
 5 in recording documents or filing documents in any court relative  
 6 to a foreclosure proceeding shall be liable for a civil penalty of up  
 7 to seven thousand five hundred dollars (\$7,500) per mortgage or  
 8 deed of trust in an action brought by a government entity identified  
 9 in Section 17204 of the Business and Professions Code, or in an  
 10 administrative proceeding brought by the Department of  
 11 ~~Corporations, Business Oversight or the Department Bureau~~ of  
 12 Real Estate, ~~or the Department of Financial Institutions~~ against a  
 13 respective licensee, in addition to any other remedies available to  
 14 these entities. This subdivision shall be inoperative on January 1,  
 15 2018.

16 SEC. 10. Section 2924.19 of the Civil Code, as amended by  
 17 Section 17 of Chapter 76 of the Statutes of 2013, is amended to  
 18 read:

19 2924.19. (a) (1) If a trustee’s deed upon sale has not been  
 20 recorded, a borrower may bring an action for injunctive relief to  
 21 enjoin a material violation of Section 2923.5, 2924.17, or 2924.18.

22 (2) An injunction shall remain in place and any trustee’s sale  
 23 shall be enjoined until the court determines that the mortgage  
 24 servicer, mortgagee, beneficiary, or authorized agent has corrected  
 25 and remedied the violation or violations giving rise to the action  
 26 for injunctive relief. An enjoined entity may move to dissolve an  
 27 injunction based on a showing that the material violation has been  
 28 corrected and remedied.

29 (b) After a trustee’s deed upon sale has been recorded, a  
 30 mortgage servicer, mortgagee, beneficiary, or authorized agent  
 31 shall be liable to a borrower for actual economic damages pursuant  
 32 to Section 3281, resulting from a material violation of Section  
 33 2923.5, 2924.17, or 2924.18 by that mortgage servicer, mortgagee,  
 34 beneficiary, or authorized agent where the violation was not  
 35 corrected and remedied prior to the recordation of the trustee’s  
 36 deed upon sale. If the court finds that the material violation was  
 37 intentional or reckless, or resulted from willful misconduct by a  
 38 mortgage servicer, mortgagee, beneficiary, or authorized agent,  
 39 the court may award the borrower the greater of treble actual  
 40 damages or statutory damages of fifty thousand dollars (\$50,000).

1 (c) A mortgage servicer, mortgagee, beneficiary, or authorized  
2 agent shall not be liable for any violation that it has corrected and  
3 remedied prior to the recordation of the trustee's deed upon sale,  
4 or that has been corrected and remedied by third parties working  
5 on its behalf prior to the recordation of the trustee's deed upon  
6 sale.

7 (d) A violation of Section 2923.5, 2924.17, or 2924.18 by a  
8 person licensed by the Department of Corporations, the Department  
9 of Financial Institutions, or the Department *Business Oversight or*  
10 *the Bureau* of Real Estate shall be deemed to be a violation of that  
11 person's licensing law.

12 (e) A violation of this article shall not affect the validity of a  
13 sale in favor of a bona fide purchaser and any of its encumbrancers  
14 for value without notice.

15 (f) A third-party encumbrancer shall not be relieved of liability  
16 resulting from violations of Section 2923.5, 2924.17, or 2924.18,  
17 committed by that third-party encumbrancer, that occurred prior  
18 to the sale of the subject property to the bona fide purchaser.

19 (g) The rights, remedies, and procedures provided by this section  
20 are in addition to and independent of any other rights, remedies,  
21 or procedures under any other law. Nothing in this section shall  
22 be construed to alter, limit, or negate any other rights, remedies,  
23 or procedures provided by law.

24 (h) A court may award a prevailing borrower reasonable  
25 attorney's fees and costs in an action brought pursuant to this  
26 section. A borrower shall be deemed to have prevailed for purposes  
27 of this subdivision if the borrower obtained injunctive relief or  
28 damages pursuant to this section.

29 (i) This section shall apply only to entities described in  
30 subdivision (b) of Section 2924.18.

31 (j) This section shall remain in effect only until January 1, 2018,  
32 and as of that date is repealed, unless a later enacted statute, that  
33 is enacted before January 1, 2018, deletes or extends that date.

34 SEC. 11. Section 2924.19 of the Civil Code, as amended by  
35 Section 18 of Chapter 76 of the Statutes of 2013, is amended to  
36 read:

37 2924.19. (a) (1) If a trustee's deed upon sale has not been  
38 recorded, a borrower may bring an action for injunctive relief to  
39 enjoin a material violation of Section 2923.5, 2924.17, or 2924.18.

1 (2) An injunction shall remain in place and any trustee's sale  
2 shall be enjoined until the court determines that the mortgage  
3 servicer, mortgagee, beneficiary, or authorized agent has corrected  
4 and remedied the violation or violations giving rise to the action  
5 for injunctive relief. An enjoined entity may move to dissolve an  
6 injunction based on a showing that the material violation has been  
7 corrected and remedied.

8 (b) After a trustee's deed upon sale has been recorded, a  
9 mortgage servicer, mortgagee, beneficiary, or authorized agent  
10 shall be liable to a borrower for actual economic damages pursuant  
11 to Section 3281, resulting from a material violation of Section  
12 2923.5, 2924.17, or 2924.18 by that mortgage servicer, mortgagee,  
13 beneficiary, or authorized agent where the violation was not  
14 corrected and remedied prior to the recordation of the trustee's  
15 deed upon sale. If the court finds that the material violation was  
16 intentional or reckless, or resulted from willful misconduct by a  
17 mortgage servicer, mortgagee, beneficiary, or authorized agent,  
18 the court may award the borrower the greater of treble actual  
19 damages or statutory damages of fifty thousand dollars (\$50,000).

20 (c) A mortgage servicer, mortgagee, beneficiary, or authorized  
21 agent shall not be liable for any violation that it has corrected and  
22 remedied prior to the recordation of the trustee's deed upon sale,  
23 or that has been corrected and remedied by third parties working  
24 on its behalf prior to the recordation of the trustee's deed upon  
25 sale.

26 (d) A violation of Section 2923.5, 2924.17, or 2924.18 by a  
27 person licensed by the Department of Corporations, ~~the Department~~  
28 ~~of Financial Institutions, or the Department~~ *Business Oversight or*  
29 *the Bureau* of Real Estate shall be deemed to be a violation of that  
30 person's licensing law.

31 (e) A violation of this article shall not affect the validity of a  
32 sale in favor of a bona fide purchaser and any of its encumbrancers  
33 for value without notice.

34 (f) A third-party encumbrancer shall not be relieved of liability  
35 resulting from violations of Section 2923.5, 2924.17, or 2924.18,  
36 committed by that third-party encumbrancer, that occurred prior  
37 to the sale of the subject property to the bona fide purchaser.

38 (g) The rights, remedies, and procedures provided by this section  
39 are in addition to and independent of any other rights, remedies,  
40 or procedures under any other law. Nothing in this section shall

1 be construed to alter, limit, or negate any other rights, remedies,  
2 or procedures provided by law.

3 (h) A court may award a prevailing borrower reasonable  
4 attorney's fees and costs in an action brought pursuant to this  
5 section. A borrower shall be deemed to have prevailed for purposes  
6 of this subdivision if the borrower obtained injunctive relief or  
7 damages pursuant to this section.

8 (i) This section shall apply only to entities described in  
9 subdivision (b) of Section 2924.18.

10 (j) This section shall remain in effect only until January 1, 2018,  
11 and as of that date is repealed, unless a later enacted statute, that  
12 is enacted before January 1, 2018, deletes or extends that date.

13 SEC. 12. Section 2924.20 of the Civil Code, as added by  
14 Section 23 of Chapter 86 of the Statutes of 2012, is amended to  
15 read:

16 2924.20. Consistent with their general regulatory authority,  
17 and notwithstanding subdivisions (b) and (c) of Section 2924.18,  
18 the Department of ~~Corporations, the Department of Financial~~  
19 ~~Institutions, and the Department~~ *Business Oversight and the Bureau*  
20 of Real Estate may adopt regulations applicable to any entity or  
21 person under their respective jurisdictions that are necessary to  
22 carry out the purposes of the act that added this section. A violation  
23 of the regulations adopted pursuant to this section shall only be  
24 enforceable by the regulatory agency.

25 SEC. 13. Section 2924.20 of the Civil Code, as added by  
26 Section 23 of Chapter 87 of the Statutes of 2012, is amended to  
27 read:

28 2924.20. Consistent with their general regulatory authority,  
29 and notwithstanding subdivisions (b) and (c) of Section 2924.18,  
30 the Department of ~~Corporations, the Department of Financial~~  
31 ~~Institutions, and the Department~~ *Business Oversight and the Bureau*  
32 of Real Estate may adopt regulations applicable to any entity or  
33 person under their respective jurisdictions that are necessary to  
34 carry out the purposes of the act that added this section. A violation  
35 of the regulations adopted pursuant to this section shall only be  
36 enforceable by the regulatory agency.

37 SEC. 14. Section 580d of the Code of Civil Procedure is  
38 amended to read:

39 580d. (a) Except as provided in subdivision (b), no deficiency  
40 shall be owed or collected, and no deficiency judgment shall be

1 rendered for a deficiency on a note secured by a deed of trust or  
2 mortgage on real property or an estate for years therein executed  
3 in any case in which the real property or estate for years therein  
4 has been sold by the mortgagee or trustee under power of sale  
5 contained in the mortgage or deed of trust.

6 (b) The fact that no deficiency shall be owed or collected under  
7 the circumstances set forth in subdivision (a) does not affect the  
8 liability that a guarantor, pledgor or other surety might otherwise  
9 have with respect to the deficiency, or that might otherwise be  
10 satisfied in whole or in part from other collateral pledged to secure  
11 the obligation that is the subject of the deficiency.

12 (c) This section does not apply to a deed of trust, mortgage, or  
13 other lien given to secure the payment of bonds or other evidences  
14 of indebtedness authorized or permitted to be issued by the  
15 Commissioner of ~~Corporations~~, *Business Oversight* or which is  
16 made by a public utility subject to the Public Utilities Act (Part 1  
17 (commencing with Section 201) of Division 1 of the Public Utilities  
18 Code).

19 SEC. 15. Section 684.115 of the Code of Civil Procedure is  
20 amended to read:

21 684.115. (a) A financial institution may, and if it has more  
22 than nine branches or offices at which it conducts its business  
23 within this state shall, designate one or more central locations for  
24 service of legal process within this state. Each designated location  
25 shall be referred to as a “central location.” If a financial institution  
26 elects or is required to designate a central location for service of  
27 legal process, the financial institution shall file a notice of its  
28 designation with the Department of ~~Financial Institutions~~, *Business*  
29 *Oversight* which filing shall be effective upon filing and shall  
30 contain all of the following:

- 31 (1) The physical address of the central location.
- 32 (2) The days and hours during which service will be accepted  
33 at the central location.
- 34 (3) If the central location will not accept service of legal process  
35 directed at deposit accounts maintained or property held at all of  
36 the financial institution’s branches or offices within this state, or  
37 if the service accepted at the central location will not apply to  
38 safe-deposit boxes or other property of the judgment debtor held  
39 by or for the judgment debtor, the filing shall also contain sufficient  
40 information to permit a determination of the limitation or

1 limitations, including, in the case of a limitation applicable to  
2 certain branches or offices, an identification of the branches or  
3 offices as to which service at the central location will not apply  
4 and the nature of the limitation applicable to those branches or  
5 offices. If the limitation will apply to all branches or offices of the  
6 financial institution within this state, the filing may indicate the  
7 nature of the limitation and that it applies to all branches or offices,  
8 in lieu of an identification of branches or offices as to which the  
9 limitation applies. To the extent that a financial institution's  
10 designation of a central location for service of legal process covers  
11 the process directed at deposit accounts, safe-deposit boxes, or  
12 other property of the judgment debtor held by or for the judgment  
13 debtor at a particular branch or office located within this state, the  
14 branch or office shall be a branch or office covered by central  
15 process.

16 (b) Should a financial institution required to designate a central  
17 location fail to do so, each branch of that institution located in this  
18 state shall be deemed to be a central location at which service of  
19 legal process may be made, and all of the institution's branches  
20 or offices located within this state shall be deemed to be a branch  
21 or office covered by central process.

22 (c) Subject to any limitation noted pursuant to paragraph (3) of  
23 subdivision (a), service of legal process at a central location of a  
24 financial institution shall be effective against all deposit accounts  
25 and all property held for safekeeping, as collateral for an obligation  
26 owed to the financial institution or in a safe-deposit box if the same  
27 is described in the legal process and held by the financial institution  
28 at any branch or office covered by central process and located  
29 within this state. However, while service of legal process at the  
30 central location will establish a lien on all property, if any property  
31 other than deposit accounts is physically held by the financial  
32 institution in a county other than that in which the designated  
33 central location is located, the financial institution shall include in  
34 its garnishee's memorandum the location or locations of the  
35 property, and the judgment creditor shall obtain a writ of execution  
36 covering the property and directed to the levying officer in that  
37 county to accomplish the turnover of the property and shall forward  
38 the writ and related required documentation to the levying officer  
39 in the county in which the property is held.

1 (d) A financial institution may modify or revoke any designation  
2 made pursuant to subdivision (a) by filing the modification or  
3 revocation with the Department of ~~Financial Institutions~~ *Business*  
4 *Oversight*. The modification or revocation shall be effective when  
5 the Department of ~~Financial Institutions~~ *Business Oversight*'s  
6 records have been updated to reflect the modification or revocation,  
7 provided that the judgment creditor may rely upon the superseded  
8 designation during the 30-day period following the effective date  
9 of the revocation or modification.

10 (e) (1) The Department of ~~Financial Institutions~~ *Business*  
11 *Oversight* shall update its online records to reflect a filing by a  
12 financial institution pursuant to subdivision (a) or a modification  
13 or revocation filed by a financial institution pursuant to subdivision  
14 (d) within 10 business days following the filing by the financial  
15 institution. The Department of ~~Financial Institutions~~ *Business*  
16 *Oversight*'s Internet Web site shall reflect the date its online records  
17 for each financial institution have most recently been updated.

18 (2) The Department of ~~Financial Institutions~~ *Business Oversight*  
19 shall provide any person requesting it with a copy of each current  
20 filing made by a financial institution pursuant to subdivision (a).  
21 The Department of ~~Financial Institutions~~ *Business Oversight* may  
22 satisfy its obligation under this subdivision by posting all current  
23 designations of a financial institution, or the pertinent information  
24 therein, on an Internet Web site available to the public without  
25 charge, and if that information is made available, the Department  
26 of ~~Financial Institutions~~ *Business Oversight* may impose a  
27 reasonable fee for furnishing that information in any other manner.

28 (f) As to deposit accounts maintained or property held for  
29 safekeeping, as collateral for an obligation owed to the financial  
30 institution or in a safe-deposit box at a branch or office covered  
31 by central process, service of legal process at a location other than  
32 a central location designated by the financial institution shall not  
33 be effective unless the financial institution, in its absolute  
34 discretion, elects to act upon the process at that location as if it  
35 were effective. In the absence of an election, the financial  
36 institution may respond to the legal process by mailing or delivery  
37 of the garnishee's memorandum to the levying officer within the  
38 time otherwise provided therefor, with a statement on the  
39 garnishee's memorandum that the legal process was not properly  
40 served at the financial institution's designated location for receiving

1 legal process, and, therefore, was not processed, and the address  
2 at which the financial institution is to receive legal process.

3 (g) If any legal process is served at a central location of a  
4 financial institution pursuant to this section, all related papers to  
5 be served on the financial institution shall be served at that location,  
6 unless agreed to the contrary between the serving party and the  
7 financial institution.

8 (h) This subdivision shall apply whenever a financial institution  
9 operates within this state at least one branch or office in addition  
10 to its head office or main office, as applicable, or a financial  
11 institution headquartered in another state operates more than one  
12 branch or office within this state, and no central location has been  
13 designated or deemed to have been designated by the institution  
14 for service of legal process relating to deposit accounts maintained  
15 at the financial institution's head office or main office, as  
16 applicable, and branches located within this state. If a judgment  
17 creditor reasonably believes that, pursuant to Section 700.140 and,  
18 if applicable, Section 700.160, any act of enforcement would be  
19 effective against a specific deposit account maintained at a financial  
20 institution described in this subdivision, the judgment creditor may  
21 file with the financial institution a written request that the financial  
22 institution identify the branch or office within this state at which  
23 a specified account might be maintained by the financial institution.  
24 The written request shall contain the following statements or  
25 information:

26 (1) The name of the person reasonably believed by the judgment  
27 creditor to be a person in whose name the specified deposit account  
28 stands.

29 (2) If the name of the person reasonably believed by the  
30 judgment creditor to be a person in whose name the specified  
31 deposit account stands is not a judgment debtor identified in the  
32 writ of execution, a statement that a person reasonably believed  
33 by the judgment creditor to be a person in whose name the specified  
34 deposit account stands will be appropriately identified in the legal  
35 process to be served pursuant to Section 700.160, including any  
36 supplementary papers, such as a court order or affidavit if the same  
37 will be required by Section 700.160.

38 (3) The specific identifying number of the account reasonably  
39 believed to be maintained with the financial institution and standing  
40 in the name of the judgment debtor or other person.

- 1 (4) The address of the requesting party.
- 2 (5) An affidavit by the judgment creditor or the judgment
- 3 creditor’s counsel stating substantially the following:

4

5 I hereby declare that this deposit account location request  
6 complies with Section 684.115 of the Code of Civil Procedure,  
7 that the account or accounts of the judgment debtor or other person  
8 or persons appropriately identified in the legal process and  
9 specified herein are subject to a valid writ of execution, or court  
10 order, that I have a reasonable belief, formed after an inquiry  
11 reasonable under the circumstances, that the financial institution  
12 receiving this deposit account location request has an account  
13 standing in the name of the judgment debtor or other person or  
14 persons appropriately identified in the legal process, and that  
15 information pertaining to the location of the account will assist the  
16 judgment creditor in enforcing the judgment.

17

18 (i) The affidavit contemplated by subdivision (h) shall be signed  
19 by the judgment creditor or the judgment creditor’s counsel and  
20 filed at the financial institution’s head office located within this  
21 state or, if the financial institution’s head office is in another state,  
22 at one of its branches or offices within this state. Failure to comply  
23 with the requirements of subdivision (h) and this subdivision shall  
24 be sufficient basis for the financial institution to refuse to produce  
25 the information that would otherwise be required by subdivision  
26 (j).

27 (j) Within 10 banking days following receipt by a financial  
28 institution at the applicable location specified in subdivision (i) of  
29 a request contemplated by subdivision (h), as to each specific  
30 deposit account identified in the request contemplated by  
31 subdivision (h), the financial institution shall respond by mailing,  
32 by first-class mail with postage prepaid, to the requester’s address  
33 as specified in the request a response indicating the branch or office  
34 location of the financial institution at which the specified deposit  
35 account might be maintained, or, if the specified deposit account,  
36 if it exists, would not be maintained at a specific location, at least  
37 one place within this state at which legal process relating to the  
38 deposit account should or may be served. The response to be  
39 furnished pursuant to this subdivision shall not require the financial  
40 institution to determine whether an account exists or, if an account

1 does exist, whether it would be reached by the legal process, rather,  
2 the branch or office location shall be determined and reported by  
3 the financial institution based solely upon its determination that  
4 an account with the identifying number provided by the requester  
5 would be maintained at that branch if an account did exist, and the  
6 response shall not contain any information about the name in which  
7 the account stands or any other information concerning the account,  
8 if it exists. If more than one account number is specified in the  
9 request, the financial institution's responses as to some or all of  
10 those account numbers may be combined in a single writing.

11 (k) A response furnished in good faith by the financial institution  
12 pursuant to subdivision (j) shall not be deemed to violate the  
13 privacy of any person in whose name the specified deposit account  
14 stands nor the privacy of any other person, and shall not require  
15 the consent of the person in whose name the account stands nor  
16 that of any other person.

17 (l) A financial institution shall not notify the person in whose  
18 name the specified deposit account stands or any other person  
19 related to the specified account of the receipt of any request made  
20 pursuant to subdivision (h) and affecting that person's or persons'  
21 accounts at the financial institution, provided that the financial  
22 institution shall have no liability for its failure to comply with the  
23 provisions of this subdivision.

24 SEC. 16. Section 163 of the Corporations Code is amended to  
25 read:

26 163. "Corporation subject to the Banking Law" (Division+  
27 1.1 (commencing with Section-99) 1000) of the Financial Code)  
28 means:

29 (a) Any corporation which, with the approval of the  
30 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is  
31 incorporated for the purpose of engaging in, or which is authorized  
32 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*  
33 to engage in, the commercial banking business under Division+  
34 1.1 (commencing with Section-99) 1000) of the Financial Code.

35 (b) Any corporation which, with the approval of the  
36 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is  
37 incorporated for the purpose of engaging in, or which is authorized  
38 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*  
39 to engage in, the industrial banking business under Division+  
40 1.1 (commencing with Section-99) 1000) of the Financial Code.

1 (c) Any corporation (other than a corporation described in  
 2 subdivision (d)) which, with the approval of the Commissioner of  
 3 ~~Financial Institutions~~, *Business Oversight*, is incorporated for the  
 4 purpose of engaging in, or which is authorized by the  
 5 Commissioner of ~~Financial Institutions~~ *Business Oversight* to  
 6 engage in, the trust business under Division ~~1.1~~ (commencing  
 7 with Section ~~99~~ 1000) of the Financial Code.

8 (d) Any corporation which is authorized by the Commissioner  
 9 of ~~Financial Institutions~~ *Business Oversight* and the Commissioner  
 10 of Insurance to maintain a title insurance department to engage in  
 11 title insurance business and a trust department to engage in trust  
 12 business; or

13 (e) Any corporation which, with the approval of the  
 14 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is  
 15 incorporated for the purpose of engaging in, or which is authorized  
 16 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*  
 17 to engage in, business under Article 1 (commencing with Section  
 18 ~~3500~~, 1850), Chapter ~~19~~, 21, Division ~~1.1~~ of the Financial Code.

19 SEC. 17. Section 201 of the Corporations Code is amended to  
 20 read:

21 201. (a) The Secretary of State shall not file articles setting  
 22 forth a name in which “bank,” “trust,” “trustee” or related words  
 23 appear, unless the certificate of approval of the Commissioner of  
 24 ~~Financial Institutions~~ *Business Oversight* is attached thereto. This  
 25 subdivision does not apply to the articles of any corporation subject  
 26 to the Banking Law on which is endorsed the approval of the  
 27 Commissioner of ~~Financial Institutions~~. *Business Oversight*.

28 (b) The Secretary of State shall not file articles which set forth  
 29 a name which is likely to mislead the public or which is the same  
 30 as, or resembles so closely as to tend to deceive, the name of a  
 31 domestic corporation, the name of a foreign corporation which is  
 32 authorized to transact intrastate business or has registered its name  
 33 pursuant to Section 2101, a name which a foreign corporation has  
 34 assumed under subdivision (b) of Section 2106, a name which will  
 35 become the record name of a domestic or foreign corporation upon  
 36 the effective date of a filed corporate instrument where there is a  
 37 delayed effective date pursuant to subdivision (c) of Section 110  
 38 or subdivision (c) of Section 5008, or a name which is under  
 39 reservation for another corporation pursuant to this title, except  
 40 that a corporation may adopt a name that is substantially the same

1 as an existing domestic corporation or foreign corporation which  
2 is authorized to transact intrastate business or has registered its  
3 name pursuant to Section 2101, upon proof of consent by such  
4 domestic or foreign corporation and a finding by the Secretary of  
5 State that under the circumstances the public is not likely to be  
6 misled.

7 The use by a corporation of a name in violation of this section  
8 may be enjoined notwithstanding the filing of its articles by the  
9 Secretary of State.

10 (c) Any applicant may, upon payment of the fee prescribed  
11 therefor in the Government Code, obtain from the Secretary of  
12 State a certificate of reservation of any name not prohibited by  
13 subdivision (b), and upon the issuance of the certificate the name  
14 stated therein shall be reserved for a period of 60 days. The  
15 Secretary of State shall not, however, issue certificates reserving  
16 the same name for two or more consecutive 60-day periods to the  
17 same applicant or for the use or benefit of the same person,  
18 partnership, firm or corporation; nor shall consecutive reservations  
19 be made by or for the use or benefit of the same person, partnership,  
20 firm or corporation of names so similar as to fall within the  
21 prohibitions of subdivision (b).

22 SEC. 18. Section 2510 of the Corporations Code is amended  
23 to read:

24 2510. “Flexible purpose corporation subject to the Banking  
25 Law” means any of the following:

26 (a) A flexible purpose corporation that, with the approval of the  
27 Commissioner of ~~Financial Institutions~~, *Business Oversight*, is  
28 incorporated for the purpose of engaging in, or that is authorized  
29 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*  
30 to engage in, the commercial banking business under the Banking  
31 Law (Division ~~1.1~~ (commencing with Section ~~99~~ 1000) of the  
32 Financial Code).

33 (b) Any flexible purpose corporation that, with the approval of  
34 the Commissioner of ~~Financial Institutions~~, *Business Oversight*,  
35 is incorporated for the purpose of engaging in, or that is authorized  
36 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*  
37 to engage in, the industrial banking business under the Banking  
38 Law (Division ~~1.1~~ (commencing with Section ~~99~~ 1000) of the  
39 Financial Code).

1 (c) Any flexible purpose corporation, other than a flexible  
2 purpose corporation described in subdivision (d), that, with the  
3 approval of the Commissioner of ~~Financial Institutions~~, *Business*  
4 *Oversight*, is incorporated for the purpose of engaging in, or that  
5 is authorized by the Commissioner of ~~Financial Institutions~~  
6 *Business Oversight* to engage in, the trust business under the  
7 Banking Law (Division ~~1.1~~ (commencing with Section ~~99~~) 1000)  
8 of the Financial Code).

9 (d) Any flexible purpose corporation that is authorized by the  
10 Commissioner of ~~Financial Institutions~~ *Business Oversight* and  
11 the Commissioner of Insurance to maintain a title insurance  
12 department to engage in title insurance business and a trust  
13 department to engage in trust business.

14 (e) Any flexible purpose corporation that, with the approval of  
15 the Commissioner of ~~Financial Institutions~~, *Business Oversight*,  
16 is incorporated for the purpose of engaging in, or that is authorized  
17 by the Commissioner of ~~Financial Institutions~~ *Business Oversight*  
18 to engage in, business under Article 1 (commencing with Section  
19 ~~3500~~) 1850) of Chapter ~~19~~ 21 of Division ~~1.1~~ of the Financial  
20 Code.

21 SEC. 19. Section 2601 of the Corporations Code is amended  
22 to read:

23 2601. (a) The Secretary of State shall not file articles setting  
24 forth a name in which “bank,” “trust,” “trustee” or related words  
25 appear, unless the certificate of approval of the Commissioner of  
26 ~~Financial Institutions~~ *Business Oversight* is attached to the articles.  
27 This subdivision does not apply to the articles of any flexible  
28 purpose corporation subject to the Banking Law on which is  
29 endorsed the approval of the Commissioner of ~~Financial~~  
30 ~~Institutions~~. *Business Oversight*.

31 (b) The Secretary of State shall not file articles that set forth a  
32 name that is likely to mislead the public or that is the same as, or  
33 resembles so closely as to tend to deceive, the name of a domestic  
34 corporation, the name of a domestic flexible purpose corporation,  
35 or the name of a foreign corporation that is authorized to transact  
36 intrastate business or has registered its name pursuant to Section  
37 2101, a name that a foreign corporation has assumed under  
38 subdivision (b) of Section 2106, a name that will become the record  
39 name of a corporation or flexible purpose corporation or a foreign  
40 corporation upon the effective date of a filed corporate instrument

1 where there is a delayed effective date pursuant to subdivision (c)  
2 of Section 110 or subdivision (c) of Section 5008, or a name that  
3 is under reservation for another corporation or flexible purpose  
4 corporation pursuant to this title, except that a flexible purpose  
5 corporation may adopt a name that is substantially the same as an  
6 existing corporation or flexible purpose corporation, foreign or  
7 domestic, which is authorized to transact intrastate business or has  
8 registered its name pursuant to Section 2101, upon proof of consent  
9 by the domestic or foreign corporation or flexible purpose  
10 corporation and a finding by the Secretary of State that under the  
11 circumstances the public is not likely to be misled. The use by a  
12 flexible purpose corporation of a name in violation of this section  
13 may be enjoined notwithstanding the filing of its articles by the  
14 Secretary of State.

15 (c) Any applicant may, upon payment of the fee prescribed in  
16 the Government Code, obtain from the Secretary of State a  
17 certificate of reservation of any name not prohibited by subdivision  
18 (b), and upon the issuance of the certificate the name stated in the  
19 certificate shall be reserved for a period of 60 days. The Secretary  
20 of State shall not, however, issue certificates reserving the same  
21 name for two or more consecutive 60-day periods to the same  
22 applicant or for the use or benefit of the same person, partnership,  
23 firm, corporation, or flexible purpose corporation. No consecutive  
24 reservations shall be made by or for the use or benefit of the same  
25 person, partnership, firm, corporation or flexible purpose  
26 corporation of names so similar as to fall within the prohibitions  
27 of subdivision (b).

28 SEC. 20. Section 5122 of the Corporations Code is amended  
29 to read:

30 5122. (a) The Secretary of State shall not file articles setting  
31 forth a name in which “bank,” “trust,” “trustee” or related words  
32 appear, unless the certificate of approval of the Commissioner of  
33 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

34 (b) The Secretary of State shall not file articles which set forth  
35 a name which is likely to mislead the public or which is the same  
36 as, or resembles so closely as to tend to deceive, the name of a  
37 domestic corporation, the name of a foreign corporation which is  
38 authorized to transact intrastate business or has registered its name  
39 pursuant to Section 2101, a name which a foreign corporation has  
40 assumed under subdivision (b) of Section 2106 or a name which

1 will become the record name of a domestic or foreign corporation  
2 upon the effective date of a filed corporate instrument where there  
3 is a delayed effective date pursuant to subdivision (c) of Section  
4 110, or subdivision (c) of Section 5008, or a name which is under  
5 reservation pursuant to this title, except that a corporation may  
6 adopt a name that is substantially the same as an existing domestic  
7 or foreign corporation which is authorized to transact intrastate  
8 business or has registered its name pursuant to Section 2101, upon  
9 proof of consent by such corporation and a finding by the Secretary  
10 of State that under the circumstances the public is not likely to be  
11 misled.

12 The use by a corporation of a name in violation of this section  
13 may be enjoined notwithstanding the filing of its articles by the  
14 Secretary of State.

15 (c) Any applicant may, upon payment of the fee prescribed  
16 therefor in the Government Code, obtain from the Secretary of  
17 State a certificate of reservation of any name not prohibited by  
18 subdivision (b), and upon the issuance of the certificate the name  
19 stated therein shall be reserved for a period of 60 days. The  
20 Secretary of State shall not, however, issue certificates reserving  
21 the same name for two or more consecutive 60-day periods to the  
22 same applicant or for the use or benefit of the same person; nor  
23 shall consecutive reservations be made by or for the use or benefit  
24 of the same person of names so similar as to fall within the  
25 prohibitions of subdivision (b).

26 SEC. 21. Section 7122 of the Corporations Code is amended  
27 to read:

28 7122. (a) The Secretary of State shall not file articles setting  
29 forth a name in which “bank,” “trust,” “trustee” or related words  
30 appear, unless the certificate of approval of the Commissioner of  
31 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

32 (b) The Secretary of State shall not file articles pursuant to this  
33 part setting forth a name which may create the impression that the  
34 purpose of the corporation is public, charitable or religious or that  
35 it is a charitable foundation.

36 (c) The Secretary of State shall not file articles which set forth  
37 a name which is likely to mislead the public or which is the same  
38 as, or resembles so closely as to tend to deceive, the name of a  
39 domestic corporation, the name of a foreign corporation which is  
40 authorized to transact intrastate business or has registered its name

1 pursuant to Section 2101, a name which a foreign corporation has  
2 assumed under subdivision (b) of Section 2106, a name which will  
3 become the record name of a domestic or foreign corporation upon  
4 the effective date of a filed corporate instrument where there is a  
5 delayed effective date pursuant to subdivision (c) of Section 110,  
6 or subdivision (c) of Section 5008, or a name which is under  
7 reservation pursuant to this title, except that a corporation may  
8 adopt a name that is substantially the same as an existing domestic  
9 or foreign corporation which is authorized to transact intrastate  
10 business or has registered its name pursuant to Section 2101, upon  
11 proof of consent by such corporation and a finding by the Secretary  
12 of State that under the circumstances the public is not likely to be  
13 misled.

14 The use by a corporation of a name in violation of this section  
15 may be enjoined notwithstanding the filing of its articles by the  
16 Secretary of State.

17 (d) Any applicant may, upon payment of the fee prescribed  
18 therefor in the Government Code, obtain from the Secretary of  
19 State a certificate of reservation of any name not prohibited by  
20 subdivision (c), and upon the issuance of the certificate the name  
21 stated therein shall be reserved for a period of 60 days. The  
22 Secretary of State shall not, however, issue certificates reserving  
23 the same name for two or more consecutive 60-day periods to the  
24 same applicant or for the use or benefit of the same person; nor  
25 shall consecutive reservations be made by or for the use or benefit  
26 of the same person of names so similar as to fall within the  
27 prohibitions of subdivision (c).

28 SEC. 22. Section 9122 of the Corporations Code is amended  
29 to read:

30 9122. (a) The Secretary of State shall not file articles setting  
31 forth a name in which “bank,” “trust,” “trustee” or related words  
32 appear, unless the certificate of approval of the Commissioner of  
33 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

34 (b) The Secretary of State shall not file articles which set forth  
35 a name which is likely to mislead the public or which is the same  
36 as, or resembles so closely as to tend to deceive, the name of a  
37 domestic corporation, the name of a foreign corporation which is  
38 authorized to transact intrastate business or has registered its name  
39 pursuant to Section 2101, a name which a foreign corporation has  
40 assumed under subdivision (b) of Section 2106 or a name which

1 will become the record name of a domestic or foreign corporation  
2 upon the effective date of a filed corporate instrument where there  
3 is a delayed effective date pursuant to subdivision (c) of Section  
4 110 or subdivision (c) of Section 5008, or a name which is under  
5 reservation pursuant to this title, except that a corporation may  
6 adopt a name that is substantially the same as an existing domestic  
7 or foreign corporation which is authorized to transact intrastate  
8 business or has registered its name pursuant to Section 2101, upon  
9 proof of consent by such corporation and a finding by the Secretary  
10 of State that under the circumstances the public is not likely to be  
11 misled.

12 The use by a corporation of a name in violation of this section  
13 may be enjoined notwithstanding the filing of its articles by the  
14 Secretary of State.

15 (c) Any applicant may, upon payment of the fee prescribed  
16 therefor in the Government Code, obtain from the Secretary of  
17 State a certificate of reservation of any name not prohibited by  
18 subdivision (b), and upon the issuance of the certificate the name  
19 stated therein shall be reserved for a period of 60 days. The  
20 Secretary of State shall not, however, issue certificates reserving  
21 the same name for two or more consecutive 60-day periods to the  
22 same applicant or for the use or benefit of the same person; nor  
23 shall consecutive reservations be made by or for the use or benefit  
24 of the same person of names so similar as to fall within the  
25 prohibitions of subdivision (b).

26 SEC. 23. Section 12302 of the Corporations Code is amended  
27 to read:

28 12302. (a) The Secretary of State shall not file articles setting  
29 forth a name in which “bank,” “trust,” “trustee” or related words  
30 appear, unless the certificate of approval of the Commissioner of  
31 ~~Financial Institutions~~ *Business Oversight* is attached thereto.

32 (b) The Secretary of State shall not file articles which set forth  
33 a name which is likely to mislead the public or which is the same  
34 as, or resembles so closely as to tend to deceive, the name of a  
35 domestic corporation, the name of a foreign corporation which is  
36 authorized to transact intrastate business or has registered its name  
37 pursuant to Section 2101, a name which a foreign corporation has  
38 assumed under subdivision (b) of Section 2106, a name which will  
39 become the record name of a domestic or foreign corporation upon  
40 the effective date of a filed corporate instrument where there is a

1 delayed effective date pursuant to this title, or a name which is  
2 under reservation pursuant to this title, except that a corporation  
3 may adopt a name that is substantially the same as an existing  
4 domestic or foreign corporation which is authorized to transact  
5 intrastate business or has registered its name pursuant to Section  
6 2101, upon proof of consent by such corporation and a finding by  
7 the Secretary of State that under the circumstances the public is  
8 not likely to be misled.

9 (c) The use by a corporation of a name in violation of this  
10 section may be enjoined notwithstanding the filing of its articles  
11 by the Secretary of State.

12 (d) Any applicant may, upon payment of the fee prescribed  
13 therefor in the Government Code, obtain from the Secretary of  
14 State a certificate of reservation of any name not prohibited by  
15 subdivision (c), and upon the issuance of the certificate the name  
16 stated therein shall be reserved for a period of 60 days. The  
17 Secretary of State shall not, however, issue certificates reserving  
18 the same name for two or more consecutive 60-day periods to the  
19 same applicant or for the use or benefit of the same person; nor  
20 shall consecutive reservations be made by or for the use or benefit  
21 of the same person of names so similar as to fall within the  
22 prohibitions of subdivision (c).

23 SEC. 24. Section 371 of the Financial Code is amended to read:

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

30 (b) There is in the Department of Business Oversight, the ~~Senior~~  
31 ~~Deputy Commissioner of the Department of Business Oversight~~  
32 ~~for the Division of Financial Institutions. Under *Institutions under*~~  
33 ~~the direction of the senior deputy commissioner, *Senior Deputy*~~  
34 ~~*Commissioner for the Division of Financial Institutions. The senior*~~  
35 ~~*deputy commissioner* has charge of the execution of the laws of~~  
36 ~~the state that were, prior to July 1, 2013, under the charge of the~~  
37 ~~Department of Financial Institutions.~~

38 SEC. 25. Section 380 of the Financial Code is amended to read:

39 380. (a) The commissioner shall inform ~~the Commissioner of~~  
40 ~~Corporations and other~~ appropriate state and federal officials

1 charged with the regulation of financial institutions or securities  
2 transactions of any enforcement actions, including, but not limited  
3 to, civil or criminal actions, cease and desist orders, license or  
4 authorization suspensions or revocations, or an open investigation.

5 (b) The commissioner shall inform ~~the Commissioner of~~  
6 ~~Corporations and other~~ appropriate state and federal officials  
7 charged with the regulation of financial institutions or securities  
8 transactions if it appears that any bank, bank holding company,  
9 savings association, savings and loan holding company, credit  
10 union, industrial loan company, industrial loan holding company,  
11 or other licensee of the department is conducting its business in a  
12 fraudulent, unsafe, unsound, or injurious manner, or has suffered  
13 or will suffer substantial financial loss or damage, and it appears  
14 to the commissioner that the information is relevant to the  
15 regulatory activities of the other agency.

16 SEC. 26. Section 1514 of the Financial Code is amended to  
17 read:

18 1514. A commercial bank may organize, sponsor, operate,  
19 control, or render investment advice to, an investment company,  
20 or underwrite, distribute, or sell securities of any investment  
21 company which has qualified to sell its securities in this state  
22 pursuant to Part 2 (commencing with Section 25100) of Division  
23 1 of Title 4 of the Corporations Code, if the officers and employees  
24 of the bank who sell these securities meet such standards with  
25 respect to training, experience, and sales practices as established  
26 by the Secretary of ~~the Business, Transportation and Housing~~  
27 ~~Agency~~ *Business, Consumer Services, and Housing* or the  
28 secretary's designee. For the purpose of this section, "investment  
29 company" means an investment company as defined in the  
30 Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et seq.).

31 SEC. 27. Section 2105 of the Financial Code is amended to  
32 read:

33 2105. (a) Each licensee or agent shall prominently post on the  
34 premises of each branch office that conducts money transmission  
35 a notice stating that:

36  
37 "If you have complaints with respect to any aspect of the money  
38 transmission activities conducted at this location, you may contact the  
39 California Department of Financial Institutions at its toll-free telephone  
40 number, 1-800-622-0620, by e-mail at [consumer.complaint@dfi.ca.gov](mailto:consumer.complaint@dfi.ca.gov);

1 or by mail at Department of Financial Institutions, Consumer Services,  
2 1810 13th Street, Sacramento, CA 95811.” *Department of Business*  
3 *Oversight at its toll-free telephone number 1-800-275-2677, its Internet*  
4 *Web site at www.dbo.ca.gov/Consumer/consumer\_services.asp, or by mail*  
5 *at Department of Business Oversight, Consumer Services, 1515 K Street,*  
6 *Suite 200, Sacramento, CA 95814.”*  
7

8 (b) The commissioner may by order or regulation modify the  
9 content of the notice required by this section. This notice shall be  
10 printed in English and in the same language principally used by  
11 the licensee or any agent of the licensee to advertise, solicit, or  
12 negotiate either orally or in writing, with respect to money  
13 transmission at that branch office. The information required in this  
14 notice shall be clear, legible, and in letters not less than one-half  
15 inch in height. The notice shall be posted in a conspicuous location  
16 in the unobstructed view of the public within the premises. The  
17 licensee shall provide to each of its agents the notice required by  
18 this section. In those locations operated by an agent, the agent, and  
19 not the licensee, shall be responsible for the failure to properly  
20 post the required notice.

21 SEC. 28. Section 5106 of the Financial Code is amended to  
22 read:

23 5106. “Department” means ~~the Division of Financial~~  
24 ~~Institutions~~ in the Department of Business Oversight.

25 SEC. 29. Section 14381 of the Financial Code is amended to  
26 read:

27 14381. The Credit Union Advisory Committee shall advise the  
28 commissioner and the Deputy Commissioner of ~~Financial~~  
29 ~~Institutions~~ *Business Oversight* for the ~~Division Office~~ of Credit  
30 Unions on matters relating to credit unions or the credit union  
31 business.

32 SEC. 30. Section 14382 of the Financial Code is amended to  
33 read:

34 14382. (a) The Credit Union Advisory Committee consists of  
35 seven members.

36 (b) The members of the Credit Union Advisory Committee shall  
37 be appointed by the Secretary of ~~the Business, Transportation and~~  
38 ~~Housing Agency.~~ *Business, Consumer Services, and Housing.*

39 (c) The term of a member of the Credit Union Advisory  
40 Committee is two years. However, a member may be reappointed.

1 (d) Membership in the Credit Union Advisory Committee is  
2 voluntary. No person is required to accept an appointment to the  
3 Credit Union Advisory Committee, and any member may resign  
4 by filing a resignation with the commissioner.

5 (e) No member of the Credit Union Advisory Committee shall  
6 receive any compensation, reimbursement for expenses, or other  
7 payment from the state in connection with service on the Credit  
8 Union Advisory Committee.

9 SEC. 31. Section 14652.5 of the Financial Code is amended  
10 to read:

11 14652.5. A credit union may organize, sponsor, operate,  
12 control, or render investment advice to, an investment company,  
13 or underwrite, distribute, or sell securities of any investment  
14 company which has qualified to sell its securities in this state  
15 pursuant to Part 2 (commencing with Section 25100) of Division  
16 1 of Title 4 of the Corporations Code, if the officers and employees  
17 of the credit union who sell these securities meet such standards  
18 with respect to training, experience, and sales practices as  
19 established by the Secretary of ~~the Business, Transportation and~~  
20 ~~Housing Agency~~ *Business, Consumer Services, and Housing* or  
21 the secretary's designee. For the purpose of this section,  
22 "investment company" means an investment company as defined  
23 in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et  
24 seq.).

25 SEC. 32. Section 18002.5 of the Financial Code is amended  
26 to read:

27 18002.5. "Department" means ~~the Division of Financial~~  
28 ~~Institutions~~ in the Department of Business Oversight.

29 SEC. 33. Section 18022.5 of the Financial Code is amended  
30 to read:

31 18022.5. An industrial loan company may organize, sponsor,  
32 operate, control, or render investment advice to, an investment  
33 company, or underwrite, distribute, or sell securities of any  
34 investment company which has qualified to sell its securities in  
35 this state pursuant to Part 2 (commencing with Section 25100) of  
36 Division 1, Title 4 of the Corporations Code, if the officers and  
37 employees of the industrial loan company who sell these securities  
38 meet such standards with respect to training experience, and sales  
39 practices as established by the Secretary of ~~the Business,~~  
40 ~~Transportation and Housing Agency~~ *Business, Consumer Services,*

1 *and Housing* or the secretary’s designee. For the purpose of this  
2 section, “investment company” means an investment company as  
3 defined in the Investment Company Act of 1940 (15 U.S.C., Sec.  
4 80a-1 et seq.).

5 SEC. 34. Section 23001 of the Financial Code is amended to  
6 read:

7 23001. As used in this division, the following terms have the  
8 following meanings:

9 (a) “Deferred deposit transaction” means a transaction whereby  
10 a person defers depositing a customer’s personal check until a  
11 specific date, pursuant to a written agreement for a fee or other  
12 charge, as provided in Section 23035.

13 (b) “Commissioner” means the Commissioner of Business  
14 Oversight.

15 (c) “Department” means ~~the Division of Corporations within~~  
16 the Department of Business Oversight.

17 (d) “Licensee” means any person who offers, originates, or  
18 makes a deferred deposit transaction, who arranges a deferred  
19 deposit transaction for a deferred deposit originator, who acts as  
20 an agent for a deferred deposit originator, or who assists a deferred  
21 deposit originator in the origination of a deferred deposit  
22 transaction. However, “licensee” does not include a state or  
23 federally chartered bank, thrift, savings association, industrial loan  
24 company, or credit union. “Licensee” also does not include a retail  
25 seller engaged primarily in the business of selling consumer goods,  
26 including consumables, to retail buyers that cashes checks or issues  
27 money orders for a minimum fee not exceeding two dollars (\$2)  
28 as a service to its customers that is incidental to its main purpose  
29 or business. “Licensee” also does not include an employee regularly  
30 employed by a licensee at the licensee’s place of business. An  
31 employee, when acting under the scope of the employee’s  
32 employment, shall be exempt from any other law from which the  
33 employee’s employer is exempt.

34 (e) “Person” means an individual, a corporation, a partnership,  
35 a limited liability company, a joint venture, an association, a joint  
36 stock company, a trust, an unincorporated organization, a  
37 government entity, or a political subdivision of a government  
38 entity.

39 (f) “Deferred deposit originator” means a person who offers,  
40 originates, or makes a deferred deposit transaction.

1 SEC. 35. Section 6254.5 of the Government Code is amended  
2 to read:

3 6254.5. Notwithstanding any other provisions of the law,  
4 whenever a state or local agency discloses a public record which  
5 is otherwise exempt from this chapter, to any member of the public,  
6 this disclosure shall constitute a waiver of the exemptions specified  
7 in Sections 6254, 6254.7, or other similar provisions of law. For  
8 purposes of this section, “agency” includes a member, agent,  
9 officer, or employee of the agency acting within the scope of his  
10 or her membership, agency, office, or employment.

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

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

14 (b) Made through other legal proceedings or as otherwise  
15 required by law.

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

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

21 (e) Made to any governmental agency which agrees to treat the  
22 disclosed material as confidential. Only persons authorized in  
23 writing by the person in charge of the agency shall be permitted  
24 to obtain the information. Any information obtained by the agency  
25 shall only be used for purposes which are consistent with existing  
26 law.

27 (f) Of records relating to a financial institution or an affiliate  
28 thereof, if the disclosures are made to the financial institution or  
29 affiliate by a state agency responsible for the regulation or  
30 supervision of the financial institution or affiliate.

31 (g) Of records relating to any person that is subject to the  
32 jurisdiction of the Department of ~~Corporations~~, *Business Oversight*,  
33 if the disclosures are made to the person that is the subject of the  
34 records for the purpose of corrective action by that person, or if a  
35 corporation, to an officer, director, or other key personnel of the  
36 corporation for the purpose of corrective action, or to any other  
37 person to the extent necessary to obtain information from that  
38 person for the purpose of an investigation by the Department of  
39 Corporations.

1 (h) Made by the Commissioner of ~~Financial Institutions~~ *Business*  
2 *Oversight* under Section ~~280, 282, 450, 452,~~ 8009, or 18396 of the  
3 Financial Code.

4 (i) Of records relating to any person that is subject to the  
5 jurisdiction of the Department of Managed Health Care, if the  
6 disclosures are made to the person that is the subject of the records  
7 for the purpose of corrective action by that person, or if a  
8 corporation, to an officer, director, or other key personnel of the  
9 corporation for the purpose of corrective action, or to any other  
10 person to the extent necessary to obtain information from that  
11 person for the purpose of an investigation by the Department of  
12 Managed Health Care.

13 SEC. 36. Section 7465 of the Government Code is amended  
14 to read:

15 7465. For the purposes of this chapter:

16 (a) The term “financial institution” includes state and national  
17 banks, state and federal savings associations, trust companies,  
18 industrial loan companies, and state and federal credit unions. Such  
19 term shall not include a title insurer while engaging in the conduct  
20 of the “business of title insurance” as defined by Section 12340.3  
21 of the Insurance Code, an underwritten title company, or an escrow  
22 company.

23 (b) The term “financial records” means any original or any copy  
24 of any record or document held by a financial institution pertaining  
25 to a customer of the financial institution.

26 (c) The term “person” means an individual, partnership,  
27 corporation, limited liability company, association, trust or any  
28 other legal entity.

29 (d) The term “customer” means any person who has transacted  
30 business with or has used the services of a financial institution or  
31 for whom a financial institution has acted as a fiduciary.

32 (e) The term “state agency” means every state office, officer,  
33 department, division, bureau, board, and commission or other state  
34 agency, including the Legislature.

35 (f) The term “local agency” includes a county; city, whether  
36 general law or chartered; city and county; school district; municipal  
37 corporation; district; political subdivision; or any board,  
38 commission or agency thereof; or other local public agency.

39 (g) The term “supervisory agency” means any of the following:

1 (1) The Department of ~~Financial Institutions~~. *Business*  
2 *Oversight*.

3 (2) The Controller.

4 (3) The Administrator of Local Agency Security.

5 (4) The Bureau of Real Estate.

6 (5) The Department of Insurance.

7 (h) The term “investigation” includes, but is not limited to, any  
8 inquiry by a peace officer, sheriff, or district attorney, or any  
9 inquiry made for the purpose of determining whether there has  
10 been a violation of any law enforceable by imprisonment, fine, or  
11 monetary liability.

12 (i) The term “subpoena” includes subpoena duces tecum.

13 SEC. 37. Section 7474 of the Government Code is amended  
14 to read:

15 7474. (a) An officer, employee, or agent of a state or local  
16 agency or department thereof, may obtain financial records under  
17 paragraph (2) of subdivision (a) of Section 7470 pursuant to an  
18 administrative subpoena or summons otherwise authorized by law  
19 and served upon the financial institution only if:

20 (1) The person issuing such administrative summons or  
21 subpoena has served a copy of the subpoena or summons on the  
22 customer pursuant to Chapter 4 (commencing with Section 413.10)  
23 of Title 5 of Part 2 of the Code of Civil Procedure, which copy  
24 may be served by an employee of the state or local agency or  
25 department thereof; and

26 (2) The subpoena or summons includes the name of the agency  
27 or department in whose name the subpoena or summons is issued  
28 and the statutory purpose for which the information is to be  
29 obtained; and

30 (3) Ten days after service pass without the customer giving  
31 notice to the financial institution that the customer has moved to  
32 quash the subpoena.

33 (b) (1) In issuing an administrative subpoena or summons  
34 pursuant to subdivision (a), the Attorney General or the  
35 Commissioner of ~~Corporations~~ *Business Oversight* pursuant to the  
36 enforcement of statutes within his *or her* jurisdiction, or the district  
37 attorney of any county in connection with investigations of  
38 violations of antitrust law as authorized by Section 16759 of the  
39 Business and Professions Code, may petition a court of competent  
40 jurisdiction in the county in which the records are located, and the

1 court, upon a showing of a reasonable inference that a law subject  
2 to the jurisdiction of the petitioning agency has been or is about  
3 to be violated, may order that service upon the customer pursuant  
4 to paragraph (1) of subdivision (a) and the 10-day period provided  
5 for in paragraph (3) of subdivision (a) be waived or shortened. For  
6 the purpose of this subdivision, an “inference” is a deduction that  
7 may reasonably be drawn by the Attorney General, the  
8 Commissioner of ~~Corporations~~, *Business Oversight*, or the district  
9 attorney from facts relevant to the investigation.

10 (2) Such petition may be presented to the court in person or by  
11 telephoned oral statement which shall be recorded and transcribed.  
12 In the case of telephonic petition, the recording of the sworn oral  
13 statement and the transcribed statement shall be certified by the  
14 magistrate receiving it and shall be filed with the clerk of the court.

15 (3) Where the court grants such petition, the court shall order  
16 the petitioning agency to notify the customer in writing of the  
17 examination of records within a period to be determined by the  
18 court but not to exceed 60 days of the agency’s receipt of any of  
19 the customer’s financial records. The notice shall specify the  
20 information otherwise required by paragraph (2) of subdivision  
21 (a), and shall also specify the financial records which were  
22 examined pursuant to the administrative subpoena or summons.  
23 Upon renewed petition, the time of notification may be extended  
24 for an additional 30-day period upon good cause to believe that  
25 such notification would impede the investigation. Thereafter, by  
26 application to a court upon a showing of extreme necessity for  
27 continued withholding of notification, such notification  
28 requirements may be extended for three additional 30-day periods.

29 (4) The Attorney General shall not provide financial records  
30 obtained pursuant to the procedure authorized in this subdivision  
31 to a local law enforcement agency unless (i) that agency has  
32 independently obtained authorization to receive such financial  
33 records pursuant to the provisions of this chapter, or (ii) he *or she*  
34 obtains such records in an investigation conducted wholly  
35 independently of the local agency and not at its instigation or  
36 request.

37 (c) Except as provided in this subdivision, nothing in this chapter  
38 shall preclude a financial institution from notifying a customer of  
39 the receipt of an administrative summons or subpoena. A court  
40 may order a financial institution to withhold notification to a

1 customer of the receipt of an administrative summons or subpoena  
2 when the court issues an order pursuant to subdivision (b) and  
3 makes a finding that notice to the customer by the financial  
4 institution would impede the investigation.

5 (d) If a customer files a motion to quash an administrative  
6 subpoena or summons issued pursuant to subdivision (a), such  
7 proceedings shall be afforded priority on the court calendar and  
8 the matter shall be heard within 10 days from the filing of the  
9 motion to quash.

10 SEC. 38. Section 7480 of the Government Code is amended  
11 to read:

12 7480. Nothing in this chapter shall prohibit any of the  
13 following:

14 (a) The dissemination of any financial information that is not  
15 identified with, or identifiable as being derived from, the financial  
16 records of a particular customer.

17 (b) When any police or sheriff's department or district attorney  
18 in this state certifies to a bank, credit union, or savings association  
19 in writing that a crime report has been filed that involves the  
20 alleged fraudulent use of drafts, checks, access cards, or other  
21 orders drawn upon any bank, credit union, or savings association  
22 in this state, the police or sheriff's department or district attorney,  
23 a county adult protective services office when investigating the  
24 financial abuse of an elder or dependent adult, or a long-term care  
25 ombudsman when investigating the financial abuse of an elder or  
26 dependent adult, may request a bank, credit union, or savings  
27 association to furnish, and a bank, credit union, or savings  
28 association shall furnish, a statement setting forth the following  
29 information with respect to a customer account specified by the  
30 requesting party for a period 30 days prior to, and up to 30 days  
31 following, the date of occurrence of the alleged illegal act involving  
32 the account:

33 (1) The number of items dishonored.

34 (2) The number of items paid that created overdrafts.

35 (3) The dollar volume of the dishonored items and items paid  
36 which created overdrafts and a statement explaining any credit  
37 arrangement between the bank, credit union, or savings association  
38 and customer to pay overdrafts.

39 (4) The dates and amounts of deposits and debits and the account  
40 balance on these dates.

1 (5) A copy of the signature card, including the signature and  
2 any addresses appearing on a customer's signature card.

3 (6) The date the account opened and, if applicable, the date the  
4 account closed.

5 (7) Surveillance photographs and video recordings of persons  
6 accessing the crime victim's financial account via an automated  
7 teller machine (ATM) or from within the financial institution for  
8 dates on which illegal acts involving the account were alleged to  
9 have occurred. Nothing in this paragraph does any of the following:

10 (A) Requires a financial institution to produce a photograph or  
11 video recording if it does not possess the photograph or video  
12 recording.

13 (B) Affects any existing civil immunities as provided in Section  
14 47 of the Civil Code or any other provision of law.

15 (8) A bank, credit union, or savings association that provides  
16 the requesting party with copies of one or more complete account  
17 statements prepared in the regular course of business shall be  
18 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

19 (c) When any police or sheriff's department or district attorney  
20 in this state certifies to a bank, credit union, or savings association  
21 in writing that a crime report has been filed that involves the  
22 alleged fraudulent use of drafts, checks, access cards, or other  
23 orders drawn upon any bank, credit union, or savings association  
24 doing business in this state, the police or sheriff's department or  
25 district attorney, a county adult protective services office when  
26 investigating the financial abuse of an elder or dependent adult,  
27 or a long-term care ombudsman when investigating the financial  
28 abuse of an elder or dependent adult, may request, with the consent  
29 of the accountholder, the bank, credit union, or savings association  
30 to furnish, and the bank, credit union, or savings association shall  
31 furnish, a statement setting forth the following information with  
32 respect to a customer account specified by the requesting party for  
33 a period 30 days prior to, and up to 30 days following, the date of  
34 occurrence of the alleged illegal act involving the account:

35 (1) The number of items dishonored.

36 (2) The number of items paid that created overdrafts.

37 (3) The dollar volume of the dishonored items and items paid  
38 which created overdrafts and a statement explaining any credit  
39 arrangement between the bank, credit union, or savings association  
40 and customer to pay overdrafts.

1 (4) The dates and amounts of deposits and debits and the account  
2 balance on these dates.

3 (5) A copy of the signature card, including the signature and  
4 any addresses appearing on a customer's signature card.

5 (6) The date the account opened and, if applicable, the date the  
6 account closed.

7 (7) Surveillance photographs and video recordings of persons  
8 accessing the crime victim's financial account via an automated  
9 teller machine (ATM) or from within the financial institution for  
10 dates on which illegal acts involving this account were alleged to  
11 have occurred. Nothing in this paragraph does any of the following:

12 (A) Requires a financial institution to produce a photograph or  
13 video recording if it does not possess the photograph or video  
14 recording.

15 (B) Affects any existing civil immunities as provided in Section  
16 47 of the Civil Code or any other provision of law.

17 (8) A bank, credit union, or savings association doing business  
18 in this state that provides the requesting party with copies of one  
19 or more complete account statements prepared in the regular course  
20 of business shall be deemed to be in compliance with paragraphs  
21 (1), (2), (3), and (4).

22 (d) For purposes of subdivision (c), consent of the accountholder  
23 shall be satisfied if an accountholder provides to the financial  
24 institution and the person or entity seeking disclosure, a signed  
25 and dated statement containing all of the following:

26 (1) Authorization of the disclosure for the period specified in  
27 subdivision (c).

28 (2) The name of the agency or department to which disclosure  
29 is authorized and, if applicable, the statutory purpose for which  
30 the information is to be obtained.

31 (3) A description of the financial records that are authorized to  
32 be disclosed.

33 (e) (1) The Attorney General, a supervisory agency, the  
34 Franchise Tax Board, the State Board of Equalization, the  
35 Employment Development Department, the Controller or an  
36 inheritance tax referee when administering the Prohibition of Gift  
37 and Death Taxes (Part 8 (commencing with Section 13301) of  
38 Division 2 of the Revenue and Taxation Code), a police or sheriff's  
39 department or district attorney, a county adult protective services  
40 office when investigating the financial abuse of an elder or

1 dependent adult, a long-term care ombudsman when investigating  
2 the financial abuse of an elder or dependent adult, a county welfare  
3 department when investigating welfare fraud, a county  
4 auditor-controller or director of finance when investigating fraud  
5 against the county, or the Department of ~~Corporations~~ *Business*  
6 *Oversight* when conducting investigations in connection with the  
7 enforcement of laws administered by the Commissioner of  
8 ~~Corporations~~, *Business Oversight* from requesting of an office or  
9 branch of a financial institution, and the office or branch from  
10 responding to a request, as to whether a person has an account or  
11 accounts at that office or branch and, if so, any identifying numbers  
12 of the account or accounts.

13 (2) No additional information beyond that specified in this  
14 section shall be released to a county welfare department without  
15 either the accountholder's written consent or a judicial writ, search  
16 warrant, subpoena, or other judicial order.

17 (3) A county auditor-controller or director of finance who  
18 unlawfully discloses information he or she is authorized to request  
19 under this subdivision is guilty of the unlawful disclosure of  
20 confidential data, a misdemeanor, which shall be punishable as  
21 set forth in Section 7485.

22 (f) The examination by, or disclosure to, any supervisory agency  
23 of financial records that relate solely to the exercise of its  
24 supervisory function. The scope of an agency's supervisory  
25 function shall be determined by reference to statutes that grant  
26 authority to examine, audit, or require reports of financial records  
27 or financial institutions as follows:

28 (1) With respect to the Commissioner of ~~Financial Institutions~~  
29 *Business Oversight* by reference to Division 1 (commencing with  
30 Section 99), ~~Division 1.5~~ *Division 1.1 (commencing with Section*  
31 *1000), Division 1.2 (commencing with Section 2000), Division 1.6*  
32 *(commencing with Section 4800), Division 2 (commencing with*  
33 *Section 5000), Division 5 (commencing with Section 14000),*  
34 *Division 7 (commencing with Section 18000), Division 15*  
35 *(commencing with Section 31000), and Division 16 (commencing*  
36 *with Section 33000), of the Financial Code.*

37 (2) With respect to the Controller by reference to Title 10  
38 (commencing with Section 1300) of Part 3 of the Code of Civil  
39 Procedure.

1 (3) With respect to the Administrator of Local Agency Security  
2 by reference to Article 2 (commencing with Section 53630) of  
3 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
4 Code.

5 (g) The disclosure to the Franchise Tax Board of (1) the amount  
6 of any security interest that a financial institution has in a specified  
7 asset of a customer or (2) financial records in connection with the  
8 filing or audit of a tax return or tax information return that are  
9 required to be filed by the financial institution pursuant to Part 10  
10 (commencing with Section 17001), Part 11 (commencing with  
11 Section 23001), or Part 18 (commencing with Section 38001), of  
12 the Revenue and Taxation Code.

13 (h) The disclosure to the State Board of Equalization of any of  
14 the following:

15 (1) The information required by Sections 6702, 6703, 8954,  
16 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
17 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
18 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
19 Revenue and Taxation Code.

20 (2) The financial records in connection with the filing or audit  
21 of a tax return required to be filed by the financial institution  
22 pursuant to Part 1 (commencing with Section 6001), Part 2  
23 (commencing with Section 7301), Part 3 (commencing with Section  
24 8601), Part 13 (commencing with Section 30001), Part 14  
25 (commencing with Section 32001), and Part 17 (commencing with  
26 Section 37001), of Division 2 of the Revenue and Taxation Code.

27 (3) The amount of any security interest a financial institution  
28 has in a specified asset of a customer, if the inquiry is directed to  
29 the branch or office where the interest is held.

30 (i) The disclosure to the Controller of the information required  
31 by Section 7853 of the Revenue and Taxation Code.

32 (j) The disclosure to the Employment Development Department  
33 of the amount of any security interest a financial institution has in  
34 a specified asset of a customer, if the inquiry is directed to the  
35 branch or office where the interest is held.

36 (k) The disclosure by a construction lender, as defined in Section  
37 8006 of the Civil Code, to the Registrar of Contractors, of  
38 information concerning the making of progress payments to a  
39 prime contractor requested by the registrar in connection with an

1 investigation under Section 7108.5 of the Business and Professions  
2 Code.

3 (l) Upon receipt of a written request from a local child support  
4 agency referring to a support order pursuant to Section 17400 of  
5 the Family Code, a financial institution shall disclose the following  
6 information concerning the account or the person named in the  
7 request, whom the local child support agency shall identify,  
8 whenever possible, by social security number:

9 (1) If the request states the identifying number of an account at  
10 a financial institution, the name of each owner of the account.

11 (2) Each account maintained by the person at the branch to  
12 which the request is delivered, and, if the branch is able to make  
13 a computerized search, each account maintained by the person at  
14 any other branch of the financial institution located in this state.

15 (3) For each account disclosed pursuant to paragraphs (1) and  
16 (2), the account number, current balance, street address of the  
17 branch where the account is maintained, and, to the extent available  
18 through the branch's computerized search, the name and address  
19 of any other person listed as an owner.

20 (4) Whenever the request prohibits the disclosure, a financial  
21 institution shall not disclose either the request or its response, to  
22 an owner of the account or to any other person, except the officers  
23 and employees of the financial institution who are involved in  
24 responding to the request and to attorneys, employees of the local  
25 child support agencies, auditors, and regulatory authorities who  
26 have a need to know in order to perform their duties, and except  
27 as disclosure may be required by legal process.

28 (5) No financial institution, or any officer, employee, or agent  
29 thereof, shall be liable to any person for (A) disclosing information  
30 in response to a request pursuant to this subdivision, (B) failing to  
31 notify the owner of an account, or complying with a request under  
32 this paragraph not to disclose to the owner, the request or disclosure  
33 under this subdivision, or (C) failing to discover any account owned  
34 by the person named in the request pursuant to a computerized  
35 search of the records of the financial institution.

36 (6) The local child support agency may request information  
37 pursuant to this subdivision only when the local child support  
38 agency has received at least one of the following types of physical  
39 evidence:

40 (A) Any of the following, dated within the last three years:

- 1 (i) Form 599.
- 2 (ii) Form 1099.
- 3 (iii) A bank statement.
- 4 (iv) A check.
- 5 (v) A bank passbook.
- 6 (vi) A deposit slip.
- 7 (vii) A copy of a federal or state income tax return.
- 8 (viii) A debit or credit advice.
- 9 (ix) Correspondence that identifies the child support obligor by
- 10 name, the bank, and the account number.
- 11 (x) Correspondence that identifies the child support obligor by
- 12 name, the bank, and the banking services related to the account of
- 13 the obligor.
- 14 (xi) An asset identification report from a federal agency.
- 15 (B) A sworn declaration of the custodial parent during the 12
- 16 months immediately preceding the request that the person named
- 17 in the request has had or may have had an account at an office or
- 18 branch of the financial institution to which the request is made.
- 19 (7) Information obtained by a local child support agency
- 20 pursuant to this subdivision shall be used only for purposes that
- 21 are directly connected with the administration of the duties of the
- 22 local child support agency pursuant to Section 17400 of the Family
- 23 Code.
- 24 (m) (1) As provided in paragraph (1) of subdivision (c) of
- 25 Section 666 of Title 42 of the United States Code, upon receipt of
- 26 an administrative subpoena on the current federally approved
- 27 interstate child support enforcement form, as approved by the
- 28 federal Office of Management and Budget, a financial institution
- 29 shall provide the information or documents requested by the
- 30 administrative subpoena.
- 31 (2) The administrative subpoena shall refer to the current federal
- 32 Office of Management and Budget control number and be signed
- 33 by a person who states that he or she is an authorized agent of a
- 34 state or county agency responsible for implementing the child
- 35 support enforcement program set forth in Part D (commencing
- 36 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
- 37 United States Code. A financial institution may rely on the
- 38 statements made in the subpoena and has no duty to inquire into
- 39 the truth of any statement in the subpoena.

1 (3) If the person who signs the administrative subpoena directs  
2 a financial institution in writing not to disclose either the subpoena  
3 or its response to any owner of an account covered by the subpoena,  
4 the financial institution shall not disclose the subpoena or its  
5 response to the owner.

6 (4) No financial institution, or any officer, employee, or agent  
7 thereof, shall be liable to any person for (A) disclosing information  
8 or providing documents in response to a subpoena pursuant to this  
9 subdivision, (B) failing to notify any owner of an account covered  
10 by the subpoena or complying with a request not to disclose to the  
11 owner, the subpoena or disclosure under this subdivision, or (C)  
12 failing to discover any account owned by the person named in the  
13 subpoena pursuant to a computerized search of the records of the  
14 financial institution.

15 (n) The dissemination of financial information and records  
16 pursuant to any of the following:

17 (1) Compliance by a financial institution with the requirements  
18 of Section 2892 of the Probate Code.

19 (2) Compliance by a financial institution with the requirements  
20 of Section 2893 of the Probate Code.

21 (3) An order by a judge upon a written ex parte application by  
22 a peace officer showing specific and articulable facts that there  
23 are reasonable grounds to believe that the records or information  
24 sought are relevant and material to an ongoing investigation of a  
25 felony violation of Section 186.10 or of any felony subject to the  
26 enhancement set forth in Section 186.11.

27 (A) The ex parte application shall specify with particularity the  
28 records to be produced, which shall be only those of the individual  
29 or individuals who are the subject of the criminal investigation.

30 (B) The ex parte application and any subsequent judicial order  
31 shall be open to the public as a judicial record unless ordered sealed  
32 by the court, for a period of 60 days. The sealing of these records  
33 may be extended for 60-day periods upon a showing to the court  
34 that it is necessary for the continuance of the investigation.  
35 Sixty-day extensions may continue for up to one year or until  
36 termination of the investigation of the individual or individuals,  
37 whichever is sooner.

38 (C) The records ordered to be produced shall be returned to the  
39 peace officer applicant or his or her designee within a reasonable  
40 time period after service of the order upon the financial institution.

1 (D) Nothing in this subdivision shall preclude the financial  
2 institution from notifying a customer of the receipt of the order  
3 for production of records unless a court orders the financial  
4 institution to withhold notification to the customer upon a finding  
5 that the notice would impede the investigation.

6 (E) Where a court has made an order pursuant to this paragraph  
7 to withhold notification to the customer under this paragraph, the  
8 peace officer or law enforcement agency who obtained the financial  
9 information shall notify the customer by delivering a copy of the  
10 ex parte order to the customer within 10 days of the termination  
11 of the investigation.

12 (4) An order by a judge issued pursuant to subdivision (c) of  
13 Section 532f of the Penal Code.

14 (5) No financial institution, or any officer, employee, or agent  
15 thereof, shall be liable to any person for any of the following:

16 (A) Disclosing information to a probate court pursuant to  
17 Sections 2892 and 2893.

18 (B) Disclosing information in response to a court order pursuant  
19 to paragraph (3).

20 (C) Complying with a court order under this subdivision not to  
21 disclose to the customer, the order, or the dissemination of  
22 information pursuant to the court order.

23 (o) Disclosure by a financial institution to a peace officer, as  
24 defined in Section 830.1 of the Penal Code, pursuant to the  
25 following:

26 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
27 Civil Code, provided that the financial institution has first complied  
28 with the requirements of paragraph (2) of subdivision (a) and  
29 subdivision (b) of Section 1748.95 of the Civil Code.

30 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
31 Financial Code, provided that the financial institution has first  
32 complied with the requirements of paragraph (2) of subdivision  
33 (a) and subdivision (b) of Section 4002 of the Financial Code.

34 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
35 Financial Code, provided that any financial institution that is a  
36 finance lender has first complied with the requirements of  
37 paragraph (2) of subdivision (a) and subdivision (b) of Section  
38 22470 of the Financial Code.

39 (p) When the governing board of the Public Employees'  
40 Retirement System or the State Teachers' Retirement System

1 certifies in writing to a financial institution that a benefit recipient  
2 has died and that transfers to the benefit recipient's account at the  
3 financial institution from the retirement system occurred after the  
4 benefit recipient's date of death, the financial institution shall  
5 furnish the retirement system with the name and address of any  
6 coowner, cosigner, or any other person who had access to the funds  
7 in the account following the date of the benefit recipient's death,  
8 or if the account has been closed, the name and address of the  
9 person who closed the account.

10 (q) When the retirement board of a retirement system established  
11 under the County Employees Retirement Law of 1937 certifies in  
12 writing to a financial institution that a retired member or the  
13 beneficiary of a retired member has died and that transfers to the  
14 account of the retired member or beneficiary of a retired member  
15 at the financial institution from the retirement system occurred  
16 after the date of death of the retired member or beneficiary of a  
17 retired member, the financial institution shall furnish the retirement  
18 system with the name and address of any coowner, cosigner, or  
19 any other person who had access to the funds in the account  
20 following the date of death of the retired member or beneficiary  
21 of a retired member, or if the account has been closed, the name  
22 and address of the person who closed the account.

23 (r) When the Franchise Tax Board certifies in writing to a  
24 financial institution that (1) a taxpayer filed a tax return that  
25 authorized a direct deposit refund with an incorrect financial  
26 institution account or routing number that resulted in all or a  
27 portion of the refund not being received, directly or indirectly, by  
28 the taxpayer; (2) the direct deposit refund was not returned to the  
29 Franchise Tax Board; and (3) the refund was deposited directly  
30 on a specified date into the account of an accountholder of the  
31 financial institution who was not entitled to receive the refund,  
32 then the financial institution shall furnish to the Franchise Tax  
33 Board the name and address of any coowner, cosigner, or any other  
34 person who had access to the funds in the account following the  
35 date of direct deposit refund, or if the account has been closed, the  
36 name and address of the person who closed the account.

37 SEC. 39. Chapter 9.7 (commencing with Section 8790) of  
38 Division 1 of Title 2 of the Government Code is repealed.

1 SEC. 40. The heading of Part 4.5 (commencing with Section  
2 13975) of Division 3 of Title 2 of the Government Code is amended  
3 to read:

4

5 PART 4.5. BUSINESS, TRANSPORTATION AND HOUSING  
6 AGENCY  
7

8 SEC. 41. Section 13975.1 of the Government Code is amended  
9 and renumbered to read:

10 ~~13975.1.~~

11 12896. (a) This section applies to every action brought in the  
12 name of the people of the State of California by the Commissioner  
13 of Business Oversight before, on, or after the effective date of this  
14 section, when enforcing provisions of those laws administered by  
15 the Commissioner of Business Oversight which authorize the  
16 Commissioner of Business Oversight to seek a permanent or  
17 preliminary injunction, restraining order, or writ of mandate, or  
18 the appointment of a receiver, monitor, conservator, or other  
19 designated fiduciary or officer of the court, except actions brought  
20 against any of the licensees specified in subparagraphs (1) through  
21 (8), inclusive, of subdivision (b) of Section 300 of the Financial  
22 Code that are governed by other law. Upon a proper showing, a  
23 permanent or preliminary injunction, restraining order, or writ of  
24 mandate shall be granted and a receiver, monitor, conservator, or  
25 other designated fiduciary or officer of the court may be appointed  
26 for the defendant or the defendant’s assets, or any other ancillary  
27 relief may be granted as appropriate. The court may order that the  
28 expenses and fees of the receiver, monitor, conservator, or other  
29 designated fiduciary or officer of the court, be paid from the  
30 property held by the receiver, monitor, conservator, or other court  
31 designated fiduciary or officer, but neither the state, the Business,  
32 Consumer Services, and Housing Agency, nor the Department of  
33 Business Oversight shall be liable for any of those expenses and  
34 fees, unless expressly provided for by written contract.

35 (b) The receiver, monitor, conservator, or other designated  
36 fiduciary or officer of the court may do any of the following subject  
37 to the direction of the court:

38 (1) Sue for, collect, receive, and take into possession all the real  
39 and personal property derived by any unlawful means, including  
40 property with which that property or the proceeds thereof has been

1 commingled if that property or the proceeds thereof cannot be  
2 identified in kind because of the commingling.

3 (2) Take possession of all books, records, and documents  
4 relating to any unlawfully obtained property and the proceeds  
5 thereof. In addition, they shall have the same right as a defendant  
6 to request, obtain, inspect, copy, and obtain copies of books,  
7 records, and documents maintained by third parties that relate to  
8 unlawfully obtained property and the proceeds thereof.

9 (3) Transfer, encumber, manage, control, and hold all property  
10 subject to the receivership, including the proceeds thereof, in the  
11 manner directed or ratified by the court.

12 (4) Avoid a transfer of any interest in any unlawfully obtained  
13 property including the proceeds thereof to any person who  
14 committed, aided or abetted, or participated in the commission of  
15 unlawful acts or who had knowledge that the property had been  
16 unlawfully obtained.

17 (5) Avoid a transfer of any interest in any unlawfully obtained  
18 property including the proceeds thereof made with the intent to  
19 hinder or delay the recovery of that property or any interest in it  
20 by the receiver or any person from whom the property was  
21 unlawfully obtained.

22 (6) Avoid a transfer of any interest in any unlawfully obtained  
23 property including the proceeds thereof that was made within one  
24 year before the date of the entry of the receivership order if less  
25 than a reasonably equivalent value was given in exchange for the  
26 transfer, except that a bona fide transferee for value and without  
27 notice that the property had been unlawfully obtained may retain  
28 the interest transferred until the value given in exchange for the  
29 transfer is returned to the transferee.

30 (7) Avoid a transfer of any interest in any unlawfully obtained  
31 property including the proceeds thereof made within 90 days before  
32 the date of the entry of the receivership order to a transferee from  
33 whom the defendant unlawfully obtained some property if (A) the  
34 receiver establishes that the avoidance of the transfer will promote  
35 a fair pro rata distribution of restitution among all people from  
36 whom defendants unlawfully obtained property and (B) the  
37 transferee cannot establish that the specific property transferred  
38 was the same property which had been unlawfully obtained from  
39 the transferee.

1 (8) Exercise any power authorized by statute or ordered by the  
2 court.

3 (c) No person with actual or constructive notice of the  
4 receivership shall interfere with the discharge of the receiver's  
5 duties.

6 (d) No person may file any action or enforce or create any lien,  
7 or cause to be issued, served, or levied any summons, subpoena,  
8 attachment, or writ of execution against the receiver or any property  
9 subject to the receivership without first obtaining prior court  
10 approval upon motion with notice to the receiver and the  
11 Commissioner of Business Oversight. Any legal procedure  
12 described in this subdivision commenced without prior court  
13 approval is void except as to a bona fide purchaser or encumbrancer  
14 for value and without notice of the receivership. No person without  
15 notice of the receivership shall incur any liability for commencing  
16 or maintaining any legal procedure described by this subdivision.

17 (e) The court has jurisdiction of all questions arising in the  
18 receivership proceedings and may make any orders and judgments  
19 as may be required, including orders after noticed motion by the  
20 receiver to avoid transfers as provided in paragraphs (4), (5), (6),  
21 and (7) of subdivision (b).

22 (f) This section is cumulative to all other provisions of law.

23 (g) If any provision of this section or the application thereof to  
24 any person or circumstances is held invalid, that invalidity shall  
25 not affect other provisions or applications of this section which  
26 can be given effect without the invalid provision or application,  
27 and to this end the provisions of this section are severable.

28 (h) The recordation of a copy of the receivership order imparts  
29 constructive notice of the receivership in connection with any  
30 matter involving real property located in the county in which the  
31 receivership order is recorded.

32 SEC. 42. Section 13975.2 of the Government Code is amended  
33 to read:

34 13975.2. (a) This section applies to every action brought in  
35 the name of the people of the State of California by the Director  
36 of the Department of Managed Health Care before, on, or after the  
37 effective date of this section, when enforcing provisions of those  
38 laws administered by the Director of the Department of Managed  
39 Health Care which authorize the Director of Managed Health Care  
40 to seek a permanent or preliminary injunction, restraining order,

1 or writ of mandate, or the appointment of a receiver, monitor,  
2 conservator, or other designated fiduciary or officer of the court.  
3 Upon a proper showing, a permanent or preliminary injunction,  
4 restraining order, or writ of mandate shall be granted and a receiver,  
5 monitor, conservator, or other designated fiduciary or officer of  
6 the court may be appointed for the defendant or the defendant's  
7 assets, or any other ancillary relief may be granted as appropriate.  
8 The court may order that the expenses and fees of the receiver,  
9 monitor, conservator, or other designated fiduciary or officer of  
10 the court, be paid from the property held by the receiver, monitor,  
11 conservator, or other court designated fiduciary or officer, but  
12 neither the state, the ~~Business, Transportation and Housing Agency,~~  
13 *Health and Human Services Agency*, nor the Department of  
14 Managed Health Care shall be liable for any of those expenses and  
15 fees, unless expressly provided for by written contract.

16 (b) The receiver, monitor, conservator, or other designated  
17 fiduciary or officer of the court may do any of the following subject  
18 to the direction of the court:

19 (1) Sue for, collect, receive, and take into possession all the real  
20 and personal property derived by any unlawful means, including  
21 property with which that property or the proceeds thereof has been  
22 commingled if that property or the proceeds thereof cannot be  
23 identified in kind because of the commingling.

24 (2) Take possession of all books, records, and documents  
25 relating to any unlawfully obtained property and the proceeds  
26 thereof. In addition, they shall have the same right as a defendant  
27 to request, obtain, inspect, copy, and obtain copies of books,  
28 records, and documents maintained by third parties that relate to  
29 unlawfully obtained property and the proceeds thereof.

30 (3) Transfer, encumber, manage, control, and hold all property  
31 subject to the receivership, including the proceeds thereof, in the  
32 manner directed or ratified by the court.

33 (4) Avoid a transfer of any interest in any unlawfully obtained  
34 property including the proceeds thereof to any person who  
35 committed, aided or abetted, or participated in the commission of  
36 unlawful acts or who had knowledge that the property had been  
37 unlawfully obtained.

38 (5) Avoid a transfer of any interest in any unlawfully obtained  
39 property including the proceeds thereof made with the intent to  
40 hinder or delay the recovery of that property or any interest in it

1 by the receiver or any person from whom the property was  
2 unlawfully obtained.

3 (6) Avoid a transfer of any interest in any unlawfully obtained  
4 property including the proceeds thereof that was made within one  
5 year before the date of the entry of the receivership order if less  
6 than a reasonably equivalent value was given in exchange for the  
7 transfer, except that a bona fide transferee for value and without  
8 notice that the property had been unlawfully obtained may retain  
9 the interest transferred until the value given in exchange for the  
10 transfer is returned to the transferee.

11 (7) Avoid a transfer of any interest in any unlawfully obtained  
12 property including the proceeds thereof made within 90 days before  
13 the date of the entry of the receivership order to a transferee from  
14 whom the defendant unlawfully obtained some property if (A) the  
15 receiver establishes that the avoidance of the transfer will promote  
16 a fair pro rata distribution of restitution among all people from  
17 whom defendants unlawfully obtained property and (B) the  
18 transferee cannot establish that the specific property transferred  
19 was the same property that had been unlawfully obtained from the  
20 transferee.

21 (8) Exercise any power authorized by statute or ordered by the  
22 court.

23 (c) No person with actual or constructive notice of the  
24 receivership shall interfere with the discharge of the receiver's  
25 duties.

26 (d) No person may file any action or enforce or create any lien,  
27 or cause to be issued, served, or levied any summons, subpoena,  
28 attachment, or writ of execution against the receiver or any property  
29 subject to the receivership without first obtaining prior court  
30 approval upon motion with notice to the receiver and the Director  
31 of the Department of Managed Health Care. Any legal procedure  
32 described in this subdivision commenced without prior court  
33 approval is void except as to a bona fide purchaser or encumbrancer  
34 for value and without notice of the receivership. No person without  
35 notice of the receivership shall incur any liability for commencing  
36 or maintaining any legal procedure described by this subdivision.

37 (e) The court shall have jurisdiction of all questions arising in  
38 the receivership proceedings and may make any orders and  
39 judgments as may be required, including orders after noticed

1 motion by the receiver to avoid transfers as provided in paragraphs  
2 (4), (5), (6), and (7) of subdivision (b).

3 (f) This section is cumulative to all other provisions of law.

4 (g) If any provision of this section or the application thereof to  
5 any person or circumstances is held invalid, that invalidity shall  
6 not affect other provisions or applications of this section that can  
7 be given effect without the invalid provision or application, and  
8 to this end the provisions of this section are severable.

9 (h) The recordation of a copy of the receivership order imparts  
10 constructive notice of the receivership in connection with any  
11 matter involving real property located in the county in which the  
12 receivership order is recorded.

13 SEC. 43. Section 13978.6 of the Government Code is amended  
14 and renumbered to read:

15 ~~13978.6.~~

16 12895. (a) There is in the Business, Consumer Services, and  
17 Housing Agency a Department of Business Oversight containing  
18 the Division of Corporations, which has the responsibility for  
19 administering various laws. In order to effectively support the  
20 Division of Corporations in the administration of these laws, there  
21 is hereby established the State Corporations Fund. All expenses  
22 and salaries of the Division of Corporations shall be paid out of  
23 the State Corporations Fund. Therefore, notwithstanding any  
24 provision of any law administered by the Division of Corporations  
25 declaring that fees, reimbursements, assessments, or other money  
26 or amounts charged and collected by the Division of Corporations  
27 under these laws are to be delivered or transmitted to the Treasurer  
28 and deposited to the credit of the General Fund, all fees,  
29 reimbursements, assessments, and other money or amounts charged  
30 and collected under these laws shall be delivered or transmitted to  
31 the Treasurer and deposited to the credit of the State Corporations  
32 Fund.

33 (b) Funds appropriated from the State Corporations Fund and  
34 made available for expenditure for any law or program of the  
35 Division of Corporations may come from the following:

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

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

3 SEC. 44. Section 13995.40.5 of the Government Code is  
 4 amended to read:

5 13995.40.5. (a) Notwithstanding subdivision (d) of Section  
 6 13995.40, the number of commissioners elected from each industry  
 7 category shall be determined by the weighted percentage of  
 8 assessments from that category, except that no more than six  
 9 commissioners shall be elected from the passenger car rental  
 10 category.

11 ~~(b) This section shall become operative only if the Secretary of~~  
 12 ~~Business, Transportation and Housing provides notice to the~~  
 13 ~~Legislature and the Secretary of State and posts notice on its~~  
 14 ~~Internet Web site that the conditions described in Section 13995.92~~  
 15 ~~have been satisfied.~~

16 SEC. 45. Chapter 5 (commencing with Section 13999) of Part  
 17 4.7 of Division 3 of Title 2 of the Government Code is repealed.

18 SEC. 46. Section 51298 of the Government Code is amended  
 19 to read:

20 51298. It is the intent of the Legislature in enacting this chapter  
 21 to provide local governments with opportunities to attract large  
 22 manufacturing facilities to invest in their communities and to  
 23 encourage industries, such as high technology, aerospace,  
 24 automotive, biotechnology, software, environmental sources, and  
 25 others, to locate and invest in those facilities in California.

26 (a) Commencing in the 1998–99 fiscal year, the governing body  
 27 of a county, city and county, or city, may, by means of an ordinance  
 28 or resolution approved by a majority of its entire membership,  
 29 elect to establish a capital investment incentive program. In any  
 30 county, city and county, or city in which the governing body has  
 31 so elected, the county, city and county, or city shall, upon the  
 32 approval by a majority of the entire membership of its governing  
 33 body of a written request therefor, pay a capital investment  
 34 incentive amount to the proponent of a qualified manufacturing  
 35 facility for up to 15 consecutive fiscal years. A request for the  
 36 payment of capital investment incentive amounts shall be filed by  
 37 a proponent in writing with the governing body of an electing  
 38 county, city and county, or city in the time and manner specified  
 39 in procedures adopted by that governing body. In the case in which  
 40 the governing body of an electing county, city and county, or city

1 approves a request for the payment of capital investment incentive  
2 amounts, both of the following conditions shall apply:

3 (1) The consecutive fiscal years during which a capital  
4 investment incentive amount is to be paid shall commence with  
5 the first fiscal year commencing after the date upon which the  
6 qualified manufacturing facility is certified for occupancy or, if  
7 no certification is issued, the first fiscal year commencing after  
8 the date upon which the qualified manufacturing facility  
9 commences operation.

10 (2) In accordance with paragraph (4) of subdivision (d), the  
11 annual payment to a proponent of each capital investment incentive  
12 amount shall be contingent upon the proponent's payment of a  
13 community services fee.

14 (b) For purposes of this section:

15 (1) "Qualified manufacturing facility" means a proposed  
16 manufacturing facility that meets all of the following criteria:

17 (A) The proponent's initial investment in that facility, in real  
18 and personal property, necessary for the full and normal operation  
19 of that facility, made pursuant to the capital investment incentive  
20 program, that comprises any portion of that facility or has its situs  
21 at that facility, exceeds one hundred fifty million dollars  
22 (\$150,000,000). Compliance with this subparagraph shall be  
23 certified by the ~~Business, Transportation and Housing Agency~~  
24 *Governor's Office of Business and Economic Development* upon  
25 the agency's approval of a proponent's application for certification  
26 of a qualified manufacturing facility. An application for  
27 certification shall be submitted by a proponent to the agency in  
28 writing in the time and manner as specified by the agency.

29 (B) The facility is to be located within the jurisdiction of the  
30 electing county, city and county, or city to which the request is  
31 made for payment of capital investment incentive amounts.

32 (C) The facility is operated by any of the following:

33 (i) A business described in Codes 3500 to 3899, inclusive, of  
34 the Standard Industrial Classification (SIC) Manual published by  
35 the United States Office of Management and Budget, 1987 edition,  
36 except that "January 1, 1997," shall be substituted for "January 1,  
37 1994," in each place in which it appears.

38 (ii) A business engaged in the recovery of minerals from  
39 geothermal resources, including the proportional amount of a

1 geothermal electric generating plant that is integral to the recovery  
2 process by providing electricity for it.

3 (iii) A business engaged in the manufacturing of parts or  
4 components related to the production of electricity using solar,  
5 wind, biomass, hydropower, or geothermal resources on or after  
6 July 1, 2010.

7 (D) The proponent is either currently engaged in commercial  
8 production or engaged in the perfection of the manufacturing  
9 process, or the perfection of a product intended to be manufactured.

10 (2) "Proponent" means a party or parties that meet all of the  
11 following criteria:

12 (A) The party is named in the application to the county, city  
13 and county, or city within which the qualified manufacturing  
14 facility would be located for a permit to construct a qualified  
15 manufacturing facility.

16 (B) The party will be the fee owner of the qualified  
17 manufacturing facility upon the completion of that facility.  
18 Notwithstanding the previous sentence, the party may enter into  
19 a sale-leaseback transaction and nevertheless be considered the  
20 proponent.

21 (C) If a proponent that is receiving capital investment incentive  
22 amounts subsequently leases the subject qualified manufacturing  
23 facility to another party, the lease may provide for the payment to  
24 that lessee of any portion of a capital investment incentive amount.  
25 Any lessee receiving any portion of a capital investment incentive  
26 amount shall also be considered a proponent for the purposes of  
27 subdivision (d).

28 (3) "Capital investment incentive amount" means, with respect  
29 to a qualified manufacturing facility for a relevant fiscal year, an  
30 amount up to or equal to the amount of ad valorem property tax  
31 revenue derived by the participating local agency from the taxation  
32 of that portion of the total assessed value of that real and personal  
33 property described in subparagraph (A) of paragraph (1) that is in  
34 excess of one hundred fifty million dollars (\$150,000,000).

35 (4) "Manufacturing" means the activity of converting or  
36 conditioning property by changing the form, composition, quality,  
37 or character of the property for ultimate sale at retail or use in the  
38 manufacturing of a product to be ultimately sold at retail.  
39 Manufacturing includes any improvements to tangible personal

1 property that result in a greater service life or greater functionality  
2 than that of the original property.

3 (c) A city or special district may, upon the approval by a  
4 majority of the entire membership of its governing body, pay to  
5 the county, city and county, or city an amount equal to the amount  
6 of ad valorem property tax revenue allocated to that city or special  
7 district, but not the actual allocation, derived from the taxation of  
8 that portion of the total assessed value of that real and personal  
9 property described in subparagraph (A) of paragraph (1) of  
10 subdivision (b) that is in excess of one hundred fifty million dollars  
11 (\$150,000,000).

12 (d) A proponent whose request for the payment of capital  
13 investment incentive amounts is approved by an electing county,  
14 city and county, or city shall enter into a community services  
15 agreement with that county, city and county, or city that includes,  
16 but is not limited to, all of the following provisions:

17 (1) A provision requiring that a community services fee be  
18 remitted by the proponent to the county, city and county, or city,  
19 in each fiscal year subject to the agreement, in an amount that is  
20 equal to 25 percent of the capital investment incentive amount  
21 calculated for that proponent for that fiscal year, except that in no  
22 fiscal year shall the amount of the community services fee exceed  
23 two million dollars (\$2,000,000).

24 (2) A provision specifying the dates in each relevant fiscal year  
25 upon which payment of the community services fee is due and  
26 delinquent, and the rate of interest to be charged to a proponent  
27 for any delinquent portion of the community services fee amount.

28 (3) A provision specifying the procedures and rules for the  
29 determination of underpayments or overpayments of a community  
30 services fee, for the appeal of determinations of any underpayment,  
31 and for the refunding or crediting of any overpayment.

32 (4) A provision specifying that a proponent is ineligible to  
33 receive a capital investment incentive amount if that proponent is  
34 currently delinquent in the payment of any portion of a community  
35 services fee amount, if the qualified manufacturing facility is  
36 constructed in a manner materially different from the facility as  
37 described in building permit application materials, or if the facility  
38 is no longer operated as a qualified manufacturing facility meeting  
39 the requirements of paragraph (1) of subdivision (b). If a proponent  
40 becomes ineligible to receive a capital investment incentive amount

1 as a result of an agreement provision included pursuant to this  
2 subparagraph, the running of the number of consecutive fiscal  
3 years specified in an agreement made pursuant to subdivision (a)  
4 is not tolled during the period in which the proponent is ineligible.

5 (5) A provision that sets forth a job creation plan with respect  
6 to the relevant qualified manufacturing facility. The plan shall  
7 specify the number of jobs to be created by that facility, and the  
8 types of jobs and compensation ranges to be created thereby. The  
9 plan shall also specify that for the entire term of the community  
10 services agreement, both of the following shall apply:

11 (A) All of the employees working at the qualified manufacturing  
12 facility shall be covered by an employer-sponsored health benefits  
13 plan.

14 (B) The average weekly wage, exclusive of overtime, paid to  
15 all of the employees working at the qualified manufacturing  
16 facility, who are not management or supervisory employees, shall  
17 be not less than the state average weekly wage.

18 For the purpose of this subdivision, “state average weekly wage”  
19 means the average weekly wage paid by employers to employees  
20 covered by unemployment insurance, as reported to the  
21 Employment Development Department for the four calendar  
22 quarters ending June 30 of the preceding calendar year.

23 (6) (A) In the case in which the proponent fails to operate the  
24 qualified manufacturing facility as required by the community  
25 services agreement, a provision that requires the recapture of any  
26 portion of any capital investment incentive amounts previously  
27 paid to the proponent equal to the lesser of the following:

28 (i) All of the capital investment incentive amounts paid to the  
29 proponent, less all of the community services fees received from  
30 the proponent, and less any capital investment incentive amounts  
31 previously recaptured.

32 (ii) The last capital investment incentive amount paid to the  
33 proponent, less the last community services fee received from the  
34 proponent, multiplied by 40 percent of the number of years  
35 remaining in the community services agreement, but not to exceed  
36 10 years, and less any capital investment incentive amounts  
37 previously recaptured.

38 (B) If the proponent fails to operate the qualified manufacturing  
39 facility as required by the community services agreement, the  
40 county, city and county, or city may, upon a finding that good

1 cause exists, waive any portion of the recapture of any capital  
2 investment incentive amount due under this subdivision. For the  
3 purpose of this subdivision, good cause includes, but is not limited  
4 to, the following:

5 (i) The proponent has sold or leased the property to a person  
6 who has entered into an agreement with the county, city and  
7 county, or city to assume all of the responsibilities of the proponent  
8 under the community services agreement.

9 (ii) The qualified manufacturing facility has been rendered  
10 inoperable and beyond repair as a result of an act of God.

11 (C) For purposes of this subdivision, failure to operate a  
12 qualified manufacturing facility as required by the community  
13 services agreement includes, but is not limited to, failure to  
14 establish the number of jobs specified in the jobs creation plan  
15 created pursuant to paragraph (5).

16 (e) (1) Each county, city and county, or city that elects to  
17 establish a capital investment incentive program shall notify the  
18 ~~Business, Transportation and Housing Agency~~ *Governor's Office*  
19 *of Business and Economic Development* of its election to do so no  
20 later than June 30th of the fiscal year in which the election was  
21 made.

22 (2) In addition to the information required to be reported  
23 pursuant to paragraph (1), each county, city and county, or city  
24 that has elected to establish a capital investment incentive program  
25 shall notify the ~~Business, Transportation and Housing Agency~~  
26 *Governor's Office of Business and Economic Development* each  
27 fiscal year no later than June 30th of the amount of any capital  
28 investment incentive payments made and the proponent of the  
29 qualified manufacturing facility to whom the payments were made  
30 during that fiscal year.

31 (3) The ~~Business, Transportation and Housing Agency~~  
32 *Governor's Office of Business and Economic Development* shall  
33 compile the information submitted by each county, city and county,  
34 and city pursuant to paragraphs (1) and (2) and submit a report to  
35 the Legislature containing this information no later than October  
36 1, every two years commencing October 1, 2000.

37 ~~(f) This section shall become operative on July 1, 2013.~~

38 SEC. 47. Section 65040.9 of the Government Code is amended  
39 to read:

1 65040.9. (a) On or before January 1, 2004, the Office of  
 2 Planning and Research shall, if sufficient federal funds become  
 3 available for this purpose, prepare and publish an advisory planning  
 4 handbook for use by local officials, planners, and builders that  
 5 explains how to reduce land use conflicts between the effects of  
 6 civilian development and military readiness activities carried out  
 7 on military installations, military operating areas, military training  
 8 areas, military training routes, and military airspace, and other  
 9 territory adjacent to those installations and areas.

10 (b) At a minimum, the advisory planning handbook shall include  
 11 advice regarding all of the following:

- 12 (1) The collection and preparation of data and analysis.
- 13 (2) The preparation and adoption of goals, policies, and  
 14 standards.
- 15 (3) The adoption and monitoring of feasible implementation  
 16 measures.
- 17 (4) Methods to resolve conflicts between civilian and military  
 18 land uses and activities.
- 19 (5) Recommendations for cities and counties to provide drafts  
 20 of general plan and zoning changes that may directly impact  
 21 military facilities, and opportunities to consult with the military  
 22 base personnel prior to approving development adjacent to military  
 23 facilities.

24 (c) In preparing the advisory planning handbook, the office shall  
 25 ~~collaborate with the Office of Military Base Retention and Reuse~~  
 26 ~~and the Business, Transportation and Housing Agency. The office~~  
 27 ~~shall~~ consult with persons and organizations with knowledge and  
 28 experience in land use issues affecting military installations and  
 29 activities.

30 (d) The office may accept and expend any grants and gifts from  
 31 any source, public or private, for the purposes of this section.

32 SEC. 48. Section 66620 of the Government Code is amended  
 33 to read:

34 66620. The San Francisco Bay Conservation and Development  
 35 Commission is hereby created. The commission shall consist of  
 36 27 members, as follows:

- 37 (a) One member appointed by the Division Engineer, United  
 38 States Army Engineers, South Pacific Division, from his or her  
 39 staff.

1 (b) One member appointed by the Administrator of the United  
2 States Environmental Protection Agency, from his or her staff.

3 (c) One member appointed by the Secretary of ~~Business and~~  
4 ~~Transportation~~, *Transportation* from his or her staff.

5 (d) One member appointed by the Director of Finance, from his  
6 or her staff.

7 (e) One member appointed by the Secretary of Resources, from  
8 his or her staff.

9 (f) One member appointed by the State Lands Commission,  
10 who shall be a member of that commission or from its staff.

11 (g) One member appointed by the San Francisco Bay Regional  
12 Water Quality Control Board, who shall be a member of that board.

13 (h) Nine county representatives consisting of one member of  
14 the board of supervisors representative of each of the nine San  
15 Francisco Bay area counties, appointed by the board of supervisors  
16 in each county. Each county representative shall be a supervisor  
17 representing a supervisorial district which includes within its  
18 boundaries lands lying within San Francisco Bay.

19 (i) Four city representatives appointed by the Association of  
20 Bay Area Governments from among the residents of the bayside  
21 cities in each of the following areas:

22 (1) North Bay—Marin, Sonoma, Napa, and Solano Counties;

23 (2) East Bay—Contra Costa County (west of Pittsburg) and  
24 Alameda County north of the southern boundary of Hayward;

25 (3) South Bay—Alameda County south of the southern  
26 boundary of Hayward, Santa Clara County, and San Mateo  
27 County south of the northern boundary of Redwood City;

28 (4) West Bay—San Mateo County north of the northern  
29 boundary of Redwood City, and the City and County of San  
30 Francisco.

31 Each city representative shall be an elected city official.

32 (j) Seven representatives of the public, who shall be residents  
33 of the San Francisco Bay area. Five of the representatives shall be  
34 appointed by the Governor and their appointments shall be subject  
35 to confirmation by the Senate. One of the representatives shall be  
36 appointed by the Committee on Rules of the Senate, and one by  
37 the Speaker of the Assembly.

38 SEC. 49. Section 44272.5 of the Health and Safety Code is  
39 amended to read:

1 44272.5. (a) The commission shall develop and adopt an  
 2 investment plan to determine priorities and opportunities for the  
 3 Alternative and Renewable Fuel and Vehicle Technology Program  
 4 created pursuant to this chapter. The investment plan shall establish  
 5 priorities for investment of funds and technologies to achieve the  
 6 goals of this chapter and describe how funding will complement  
 7 existing public and private investments, including existing state  
 8 programs that further the goals of this chapter. The commission  
 9 shall create and consult with an advisory body as it develops the  
 10 investment plan. The advisory body is subject to the Bagley-Keene  
 11 Open Meeting Act (Article 9 (commencing with Section 11120)  
 12 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
 13 Code). The commission shall, at a minimum, hold one public  
 14 hearing on the advisory body’s recommendations prior to approving  
 15 the investment plan.

16 (b) Membership of the advisory body created pursuant to  
 17 subdivision (a) shall include, but is not limited to, representatives  
 18 of fuel and vehicle technology entities, labor organizations,  
 19 environmental organizations, community-based justice and public  
 20 health organizations, recreational boaters, consumer advocates,  
 21 academic institutions, workforce training groups, and private  
 22 industry. The advisory body shall also include representatives from  
 23 the Resources Agency, the ~~Business, Transportation and Housing~~  
 24 ~~Agency, Transportation Agency,~~ the Labor and Workforce  
 25 Development Agency, and the California Environmental Protection  
 26 Agency.

27 (c) The commission shall hold at least three public workshops  
 28 in different regions of the state and one public hearing prior to  
 29 approving the investment plan. The commission shall annually  
 30 update and approve the plan. The commission shall reconvene and  
 31 consult with the advisory body created pursuant to subdivision (a)  
 32 prior to annually updating and approving the plan.

33 SEC. 50. Section 12414.31 of the Insurance Code is amended  
 34 to read:

35 12414.31. (a) (1) Whenever the commissioner takes any  
 36 formal enforcement or disciplinary action directly against an  
 37 employee of a title insurer, underwritten title company, or  
 38 controlled escrow company, for malfeasance or misconduct  
 39 committed by the employee in his or her performance of escrow  
 40 related services, upon the action becoming final the commissioner

1 shall notify the Real Estate Commissioner and the Commissioner  
2 of ~~Corporations~~ *Business Oversight* of the action or actions taken.  
3 The purpose of this notification is to alert the departments that  
4 enforcement or disciplinary action has been taken, if the employee  
5 seeks or obtains employment with entities regulated by the  
6 departments.

7 (2) The commissioner shall provide the Real Estate  
8 Commissioner and the Commissioner of ~~Corporations~~, *Business*  
9 *Oversight*, in addition to the notification of the action taken, with  
10 a copy of the written accusation, statement of issues, or order issued  
11 or filed in the matter and, at the request of the Real Estate  
12 Commissioner or Commissioner of ~~Corporations~~, *Business*  
13 *Oversight*, with any underlying factual material relevant to the  
14 enforcement or disciplinary action. Any confidential information  
15 provided by the commissioner to the Commissioner of ~~Corporations~~  
16 *Business Oversight* or the Real Estate Commissioner shall not be  
17 made public pursuant to this section. Notwithstanding any other  
18 ~~provision of law~~, the disclosure of any underlying factual material  
19 to the Commissioner of ~~Corporations~~ *Business Oversight* or the  
20 Real Estate Commissioner shall not operate as a waiver of  
21 confidentiality or any privilege that the commissioner may assert.

22 (b) The commissioner shall establish and maintain, on the Web  
23 site maintained by the Department of Insurance, a separate and  
24 readily identifiable database of all persons who have been subject  
25 to any enforcement or disciplinary action that triggers the  
26 notification requirements of this section. The database shall also  
27 contain a direct link to the databases, described in Section 10176.1  
28 of the Business and Professions Code and Section 17423.1 of the  
29 Financial Code and required to be maintained on the Web sites of  
30 the Bureau of Real Estate and the Department of ~~Corporations~~,  
31 *Business Oversight*, respectively, of persons who have been subject  
32 to enforcement or disciplinary action for malfeasance or  
33 misconduct related to the escrow industry by the Commissioner  
34 of ~~Corporations~~ *Business Oversight* and the Real Estate  
35 Commissioner.

36 (c) There shall be no liability on the part of, and no cause of  
37 action of any nature shall arise against, the State of California, the  
38 Department of Insurance, the Insurance Commissioner, any other  
39 state agency, or any officer, agent, employee, consultant, or  
40 contractor of the state, for the release of any false or unauthorized

1 information pursuant to this section, unless the release of that  
 2 information was done with knowledge and malice, or for the failure  
 3 to release any information pursuant to this section.

4 SEC. 51. Section 12710 of the Insurance Code is amended to  
 5 read:

6 12710. The California Major Risk Medical Insurance Program  
 7 is hereby created in the Health and Welfare Agency. The program  
 8 shall be managed by the Major Risk Medical Insurance Board.  
 9 The board shall consist of seven members, five of whom shall be  
 10 appointed as follows:

11 The Governor shall appoint three members, subject to  
 12 confirmation by the Senate, and shall designate one of these  
 13 appointees as chair of the board. The Senate Committee on Rules  
 14 shall appoint one member. The Speaker of the Assembly shall  
 15 appoint one member. The terms of appointment shall be four years.

16 ~~The Secretary of Business, Transportation and Housing, or his~~  
 17 ~~or her designee, and the Secretary of California Health and Welfare~~  
 18 *Human Services*, or his or her designee, shall serve on the board  
 19 as ex officio, nonvoting members.

20 The board shall appoint an executive director for the board, who  
 21 shall serve at the pleasure of the board. The executive director  
 22 shall receive the salary established by the Department of Human  
 23 Resources for exempt officials. The executive director shall  
 24 administer the affairs of the board as directed by the board, and  
 25 shall direct the staff of the board. The executive director may  
 26 appoint, with the approval of the board, staff necessary to carry  
 27 out the provisions of this part.

28 SEC. 52. Section 2802 of the Penal Code is amended to read:

29 2802. Commencing July 1, 2005, there is hereby continued in  
 30 existence within the Department of Corrections and Rehabilitation  
 31 a Prison Industry Board. The board shall consist of the following  
 32 11 members:

33 (a) The Secretary of the Department of Corrections and  
 34 Rehabilitation, or his or her designee.

35 (b) The Director of the Department of General Services, or his  
 36 or her designee.

37 (c) ~~The Secretary of Business, Transportation and Housing,~~  
 38 *Transportation*, or his or her designee.

39 (d) The Speaker of the Assembly shall appoint two members  
 40 to represent the general public.

1 (e) The Senate Committee on Rules shall appoint two members  
2 to represent the general public.

3 (f) The Governor shall appoint four members. Of these, two  
4 shall be representatives of organized labor, and two shall be  
5 representatives of industry. The initial term of one of the members  
6 appointed by the Speaker of the Assembly shall be two years, and  
7 the initial term of the other shall be three years. The initial term  
8 of one of the members appointed by the Senate Committee on  
9 Rules shall be two years, and the initial term of the other shall be  
10 three years. The initial terms of the four members appointed by  
11 the Governor shall be four years. All subsequent terms of all  
12 members shall be for four years. Each member's term shall  
13 continue until the appointment and qualification of his or her  
14 successor.

15 SEC. 53. Section 22003 of the Public Utilities Code is amended  
16 to read:

17 22003. (a) Unless the context otherwise requires, the  
18 definitions and general provisions contained in this chapter govern  
19 the construction of this part.

20 (b) ~~“Spaceport” and associated terms contained in this part shall~~  
21 ~~be defined pursuant to Section 13999.1 of the Government Code.~~

22 SEC. 54. Section 22553.2 of the Public Utilities Code is  
23 repealed.

24 ~~22553.2. No district may exercise any of the authority granted~~  
25 ~~under this part for the development of spaceports unless it has been~~  
26 ~~designated as a spaceport pursuant to Section 13999.3 of the~~  
27 ~~Government Code.~~