

**Introduced by Senator Dodd**

(Principal coauthor: Assembly Member Dababneh)

February 13, 2017

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An act to amend Sections 22152, 22157, 22161, 22168, 22169, 22700, 22701, 22704, 22705, 22707, 22707.5, 22710, 22711, 22712, 22714, and 22757 of, and to add Sections 22009.5, 22010.5, 22010.6, 22113, 22114, 22173, 22174, 22175, and 22176 to, the Financial Code, relating to financial regulations.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 297, as introduced, Dodd. California Finance Lenders Law: regulation of finders.

(1) The California Finance Lenders Law provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight and makes a willful violation of its provisions a crime. Existing law regulates the charges a licensee may impose or receive on loans it makes.

This bill would expand the application of that law to include finders, and would prohibit a person from engaging in business as a finder, defined to include any person who helps bring a prospective borrower and finance lender together regarding certain loan activities, without first registering with the commissioner. The bill would require the commissioner to establish timelines and fees for finder registration and renewals, and would mandate that specified minimum information be required for applicants seeking registration, including the name, business address, and licensing details of the finder and his or her employees who are responsible for that finder's activities, and a list of activities the finder would perform on behalf of lenders. The bill would authorize the commissioner to order the suspension or revocation of a finder's

registration upon failure to pay a required fee or assessment by the specified due date and would prohibit a finder from engaging in specific activities, including counseling or providing advice to a borrower, and would also prohibit a finder, during any period when its registration is revoked or suspended, from conducting any business unless permitted by the commissioner.

The bill would authorize a licensee to compensate a registered finder for that finder's activities, subject to various requirements, including entering into a written agreement clearly describing the services to be performed, and complying with the applicable statutory provisions governing those transactions. The bill would further require finders to provide specified disclosure information to consumers about the nature of the finder's business as an independent loan matching/referral/comparison service registered with the Department of Business Oversight.

(2) Existing law prohibits a person from making a materially false or misleading statement or representation about the terms or conditions of a borrower's loan, when making or brokering that loan.

This bill additionally would prohibit a person from making a materially false or misleading statement or representation to a prospective borrower about the terms or conditions of a loan for which the prospective borrower may qualify, when engaging in finding activities on behalf of a licensee subject to that division. The bill also would make related and conforming changes, including authorizing the commissioner to take various enforcement actions upon finding that a finder has violated the act. By expanding the definition of a crime, the bill would impose a state-mandated local program.

Existing law requires finance lenders, brokers, and mortgage loan originator licensees to preserve their books, accounts, and records for at least 3 years after making the final entry on any loan recorded in those documents.

This bill also would require finance lenders that utilize the services of a finder to maintain their records of dealings with that finder for at least 3 years and would require finders to maintain records related to finding activities on behalf of lenders for at least 3 years following the creation of those documents.

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

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

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

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

1 SECTION 1. Section 22009.5 is added to the Financial Code,  
2 to read:

3 22009.5. "Finance broker" means any person who brings a  
4 prospective borrower and a finance lender together, and who is  
5 engaged in the business of performing one or both of the following  
6 activities:

7 (1) Negotiating the price, length, or any other loan term between  
8 a licensee and a prospective borrower that may be applicable to  
9 the borrower.

10 (2) Advising a prospective borrower as to any loan term.  
11 Providing financial education or information of a general nature  
12 to a prospective borrower shall not be considered advising.

13 SEC. 2. Section 22010.5 is added to the Financial Code, to  
14 read:

15 22010.5. "Finder" means any person who helps facilitate a  
16 loan subject to this division by performing one or more of the  
17 following activities:

18 (a) Collecting nonpublic personal identification information,  
19 such as social security number, tax identification number, bank  
20 account number, bank routing number, or other nonpublic personal  
21 identification information, from prospective borrowers in  
22 anticipation of selling or submitting the information to one or more  
23 finance lenders.

24 (b) Introducing or matching prospective borrowers and  
25 prospective lenders after comparing prospective borrowers'  
26 attributes with prospective lenders' underwriting requirements.

27 (c) Offering to the public a means through which the finder  
28 compiles and publishes comparison information on various loans  
29 offered by finance lenders, including services that allow consumers  
30 to contact finance lenders through links on the finder's Internet  
31 Web site or comparable technological means.

32 (d) Delivering disclosures to borrowers or prospective borrowers  
33 that are required pursuant to this division.

1 (e) Providing written factual information about loan terms,  
2 conditions, or qualification requirements to a prospective borrower  
3 that has been either prepared by a finance lender or reviewed and  
4 approved in writing by that lender. A finder may discuss that  
5 information with a prospective borrower in general terms, but may  
6 not provide counseling or advice to a prospective borrower.

7 (f) Notifying a prospective borrower of the information needed  
8 to complete an application for a loan subject to this division,  
9 without providing counseling or advice to a prospective borrower.

10 (g) Contacting a finance lender on behalf of a prospective  
11 borrower to determine the status of a prospective borrower's loan  
12 application.

13 (h) Communicating a response that is returned by a finance  
14 lender's automated underwriting system to a borrower or a  
15 prospective borrower.

16 (i) Obtaining a borrower's signature on documents prepared by  
17 a finance lender and delivering final copies of the documents to  
18 the borrower.

19 SEC. 3. Section 22010.6 is added to the Financial Code, to  
20 read:

21 22010.6. The following shall not be deemed to be finance  
22 brokers or finders and may engage in the activities specified below  
23 in connection with loans subject to this division, without the  
24 requirement for licensure or regulation:

25 (a) A person who is not engaged in the business of a broker or  
26 a finder, and whose activities in connection with the referral of  
27 loans subject to this division are performed on no more than an  
28 occasional basis, not to exceed five times in any calendar year.

29 (b) A person who disseminates, places, posts, or distributes  
30 advertising or promotional information or materials pertaining to  
31 loans on behalf of licensees and does not engage in the activities  
32 of a broker or a finder.

33 (c) A person providing financial education or information of a  
34 general nature to a prospective borrower.

35 SEC. 4. Section 22113 is added to the Financial Code, to read:

36 22113. (a) No person may engage in the business of a finder  
37 without first registering as a finder with the commissioner.

38 (b) An application for registration as a finder under this division  
39 shall be in the form and contain the information the commissioner

1 may by rule or order require. The following information shall be  
2 required of applicants for registration, at a minimum:

3 (1) The name, business address, and licensing details, if  
4 applicable, of the finder and all physical locations and Internet  
5 Web site addresses from which the finder will engage in activities  
6 subject to this division.

7 (2) The name and contact information for an employee of the  
8 finder who is knowledgeable about, and has the authority to  
9 execute, the contract governing the business relationship between  
10 the finder and lenders subject to this division.

11 (3) The name and contact information for one or more  
12 employees of the finder who are responsible for that finder's  
13 finding activities on behalf of lenders subject to this division.

14 (4) A list of the activities the finder will perform on behalf of  
15 lenders subject to this division.

16 (c) The commissioner shall, by rule, establish the timelines and  
17 fees applicable to applicants for original finder registrations and  
18 annual renewals.

19 (d) If a registered finder fails to pay a required fee or assessment  
20 by the due date specified by the commissioner, the commissioner  
21 may by order summarily suspend or revoke the finder's registration.  
22 If, after an order is made, a request for hearing is filed in writing  
23 within 30 days, and a hearing is not held within 60 days thereafter,  
24 the order is deemed rescinded as of its effective date. During any  
25 period when its registration is revoked or suspended, a finder shall  
26 not conduct business pursuant to this division except as may be  
27 permitted by order of the commissioner. However, the revocation,  
28 suspension, or surrender of a registration shall not affect the powers  
29 of the commissioner as provided in this division.

30 SEC. 5. Section 22114 is added to the Financial Code, to read:

31 22114. (a) Upon reasonable notice and opportunity to be heard,  
32 the commissioner may deny an application for a registration as a  
33 finder for either of the following reasons:

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

36 (2) The commissioner has grounds to believe that approval is  
37 likely to result in harm to the public.

38 (b) An application for registration as a finder shall be considered  
39 withdrawn if the applicant fails to respond to a written notification

1 of a deficiency in the application within 90 days of the date of the  
2 notification.

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

8 SEC. 6. Section 22152 of the Financial Code is amended to  
9 read:

10 22152. (a) A finance lender or broker licensee shall maintain  
11 only one place of business under a duplicate or original license  
12 issued pursuant to Section 22101 or 22102. The commissioner  
13 may issue more than one license to the same licensee upon  
14 compliance with all the provisions of this division governing an  
15 original issuance of a license.

16 (b) *The location at which a registered finder engages in finding*  
17 *activities on behalf of a finance lender or broker licensee shall not*  
18 *be considered a place of business of the licensee.*

19 SEC. 7. Section 22157 of the Financial Code is amended to  
20 read:

21 22157. (a) Finance lender, broker, and mortgage loan  
22 originator licensees shall preserve their books, accounts, and  
23 records, including cards used in the card system, if any, for at least  
24 three years after making the final entry on any loan recorded  
25 therein.

26 (b) *Each finance lender that utilizes the services of a finder*  
27 *shall maintain records of its dealings with that finder, including*  
28 *agreements, contracts, books, accounts, and records, for at least*  
29 *three years following the creation of those documents.*

30 (c) *Each finder that is compensated by a lender licensed under*  
31 *this division shall maintain records related to its finding activities*  
32 *on behalf of lenders for at least three years following the creation*  
33 *of those documents.*

34 SEC. 8. Section 22161 of the Financial Code is amended to  
35 read:

36 22161. No person subject to this division shall do any of the  
37 following:

38 (a) Make a materially false or misleading statement or  
39 representation to a borrower about the terms or conditions of that  
40 borrower's loan, when making or brokering the loan.

1 (b) *Make a materially false or misleading statement or*  
2 *representation to a prospective borrower about the terms or*  
3 *conditions of a loan for which the prospective borrower may*  
4 *qualify, when engaging in finding activities on behalf of a licensee*  
5 *subject to this division.*

6 ~~(b)~~

7 (c) Advertise, print, display, publish, distribute, or broadcast,  
8 or cause or permit to be advertised, printed, displayed, published,  
9 distributed, or broadcast in any manner, any statement or  
10 representation with regard to the business subject to the provisions  
11 of this division, including the rates, terms, or conditions for making  
12 or negotiating loans, that is false, misleading, or deceptive, or that  
13 omits material information that is necessary to make the statements  
14 not false, misleading, or deceptive, or in the case of a licensee,  
15 that refers to the supervision of the business by the state or any  
16 department or official of the state.

17 ~~(c)~~

18 (d) Commit an act in violation of Section 1695.13 of the Civil  
19 Code.

20 ~~(d)~~

21 (e) Engage in any act in violation of Section 17200 of the  
22 Business and Professions Code.

23 ~~(e)~~

24 (f) Knowingly misrepresent, circumvent, or conceal, through  
25 subterfuge or device, any material aspect or information regarding  
26 a transaction to which the person is a party.

27 ~~(f)~~

28 (g) Commit an act that constitutes fraud or dishonest dealings.

29 SEC. 9. Section 22168 of the Financial Code is amended to  
30 read:

31 22168. (a) The commissioner may, after appropriate notice  
32 and opportunity for hearing, suspend for a period not to exceed 12  
33 months or bar a person from any position of employment with a  
34 licensee *or a registered finder* if the commissioner finds that the  
35 person has willfully used or claimed without authority a designation  
36 or certification of special education, practice, or skill that the person  
37 has not attained, or willfully held out to the public a confusingly  
38 similar designation or certification for the purpose of misleading  
39 the public regarding his or her qualifications or experience.

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

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

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

25 SEC. 10. Section 22169 of the Financial Code is amended to  
 26 read:

27 22169. (a) The commissioner may, after appropriate notice  
 28 and opportunity for hearing, by order, censure or suspend for a  
 29 period not exceeding 12 months, or bar from any position of  
 30 employment, management, or control any finance lender, broker,  
 31 mortgage loan originator, *finder*, or any other person, if the  
 32 commissioner finds either of the following:

33 (1) That the censure, suspension, or bar is in the public interest  
 34 and that the person has committed or caused a violation of this  
 35 division or rule or order of the commissioner, which violation was  
 36 either known or should have been known by the person committing  
 37 or causing it or has caused material damage to the finance lender,  
 38 broker, ~~or mortgage loan originator~~, *or finder*, or to the public.

39 (2) That the person has been convicted of or pleaded nolo  
 40 contendere to any crime, or has been held liable in any civil action



1 by final judgment, or any administrative judgment by any public  
2 agency, if that crime or civil or administrative judgment involved  
3 any offense involving dishonesty, fraud, or deceit, or any other  
4 offense reasonably related to the qualifications, functions, or duties  
5 of a person engaged in the business in accordance with the  
6 provisions of this division.

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

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

22 (d) Persons suspended or barred under this section are prohibited  
23 from participating in any business activity of a finance lender,  
24 broker, ~~or~~ mortgage loan originator, *or finder*; and from engaging  
25 in any business activity on the premises where a finance lender,  
26 broker, ~~or~~ mortgage loan ~~originator~~ *originator, or finder* is  
27 conducting business.

28 SEC. 11. Section 22173 is added to the Financial Code, to read:  
29 22173. A licensee may compensate a registered finder for  
30 engaging in finding activities, subject to all of the following  
31 requirements:

32 (a) Each licensee wishing to engage the services of a finder shall  
33 enter into a written agreement with that finder clearly describing  
34 the services to be performed.

35 (b) Each agreement between a licensee and a finder shall include  
36 provisions requiring the finder to do all of the following:

37 (1) Register with the commissioner in accordance with this  
38 division.

1 (2) Comply with applicable provisions of this division and with  
2 rules promulgated and orders issued by the commissioner to  
3 implement those provisions.

4 (3) Retain and produce records of all transactions conducted  
5 with California residents on behalf of the licensee, as required by  
6 Section 22157.

7 (c) Each licensee shall exercise oversight over each of its  
8 finder’s compliance with the provisions of this division.

9 SEC. 12. Section 22174 is added to the Financial Code, to read:

10 22174. (a) At the time a finder receives an inquiry or  
11 application from a consumer for a loan subject to this division, the  
12 finder shall provide the following statement to the consumer in no  
13 smaller than 10-point type, or electronically in a form that allows  
14 the statement to be printed:

15  
16 “[Name of finder] is an independent loan  
17 matching/referral/comparison service registered with the California  
18 Department of Business Oversight. [Name of finder] may be  
19 compensated by lenders in exchange for loan referrals, for featured  
20 placement of certain sponsored products and services, or for your  
21 clicking on certain links posted on an Internet Web site. You may  
22 receive separate communications from one or more lenders based  
23 on the information we have collected from you. If you have  
24 questions about the services we perform, you may contact us at  
25 [phone at which finder may be reached] or [email address at which  
26 finder may be reached]. If you wish to report a complaint about  
27 [Name of finder], you may contact the Department of Business  
28 Oversight at 866-275-2677, or file your complaint online at  
29 www.dbo.ca.gov.”  
30

31 (b) At the time a lender licensed under this division approves  
32 an application for a loan subject to this division from a borrower  
33 who has been referred to it by one or more finders, the lender shall  
34 provide the following statement to the borrower in no smaller than  
35 10-point type, or electronically in a form that allows that statement  
36 to be printed:

37  
38 “[Name of licensed lender] has approved you for a loan based  
39 on information you provided to a third party working on our behalf.  
40 The details of the loan we are prepared to extend to you are

1 described in accompanying documents. We may compensate the  
2 third party from which we obtained your information for their  
3 services in referring you to us. If you have any questions about  
4 your loan, now or in the future, you should direct those questions  
5 to us by [insert at least two different ways in which a borrower  
6 may contact the lender]. If you wish to report a complaint regarding  
7 this loan transaction, you may contact the Department of Business  
8 Oversight at 866-275-2677, or file your complaint online at  
9 [www.dbo.ca.gov](http://www.dbo.ca.gov).”

10

11 (c) If a loan applicant directs questions about a loan to a finder,  
12 which the loan the finder is not permitted to answer, the finder  
13 shall make a good faith effort to assist the applicant in making  
14 direct contact with the lender before the loan is consummated.  
15 This good faith effort shall, at a minimum, consist of assisting the  
16 applicant in communicating with the licensee as soon as reasonably  
17 practicable, which shall at a minimum include a two-way  
18 communication. For purposes of this section, “two-way  
19 communication” means telephone, electronic mail, or another form  
20 of communication that allows the applicant to communicate with  
21 the licensee.

22 SEC. 13. Section 22175 is added to the Financial Code, to read:

23 22175. (a) A finder shall comply with all laws, rules, and  
24 orders applicable to licensees under this division, which impose  
25 requirements regarding the duty to safeguard nonpublic personal  
26 financial information.

27 (b) Nonpublic personal financial information collected from a  
28 consumer by a finder in connection with a loan request or  
29 application may not be disclosed to or used by any third party,  
30 except where the finder provides that information to a lender  
31 licensed under this division pursuant to the express written or  
32 electronic consent from the consumer.

33 SEC. 14. Section 22176 is added to the Financial Code, to read:

34 22176. A finder may not engage in any of the following  
35 activities:

36 (a) Provide counseling or advice to a borrower or prospective  
37 borrower.

38 (b) Provide loan-related marketing materials that have not  
39 previously been approved by a lender licensed under this division  
40 to a borrower or a prospective borrower.

1 (c) Make a materially false or misleading statement or  
2 representation to a prospective borrower about the terms or  
3 conditions of a loan for which the prospective borrower may  
4 qualify, when engaging in finding activities on behalf of a licensee  
5 subject to this division.

6 (d) Use or disclose to any third party a prospective borrower's  
7 nonpublic personal identification information without first  
8 obtaining the borrower's consent.

9 SEC. 15. Section 22700 of the Financial Code is amended to  
10 read:

11 22700. (a) Finance lender and broker licenses *and finder*  
12 *registrations* issued under this division shall remain in effect until  
13 they are surrendered, revoked, or suspended.

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

18 (c) Surrender of a license *or registration* becomes effective 30  
19 days after receipt of an application to surrender the license *or*  
20 *registration* or within a shorter period of time that the  
21 commissioner may determine, unless a revocation or suspension  
22 proceeding is pending when the application is filed or a proceeding  
23 to revoke or suspend or to impose conditions upon the surrender  
24 is instituted within 30 days after the application is filed. If a  
25 proceeding is pending or instituted, surrender of a license *or*  
26 *registration* becomes effective at the time and upon the conditions  
27 that the commissioner determines.

28 SEC. 16. Section 22701 of the Financial Code is amended to  
29 read:

30 22701. For the purpose of discovering violations of this division  
31 or securing information required by him or her in the administration  
32 and enforcement of this division, the commissioner may at any  
33 time investigate the loans and business, and examine the books,  
34 accounts, records, and files used in the business, of every person  
35 engaged in the business of a ~~finance lender or lender~~, broker, *or*  
36 *finder* whether the person acts or claims to act as principal or agent,  
37 or under or without the authority of this division. For the purpose  
38 of examination, the commissioner and his or her representatives  
39 shall have free access to the offices and places of business, books,

1 accounts, papers, records, files, safes, and vaults of all these  
2 persons.

3 SEC. 17. Section 22704 of the Financial Code is amended to  
4 read:

5 22704. The power of investigation and examination by the  
6 commissioner is not terminated by the surrender, suspension, or  
7 revocation of any license *or registration* issued by him or her.

8 SEC. 18. Section 22705 of the Financial Code is amended to  
9 read:

10 22705. Whenever the commissioner deems it necessary for the  
11 general welfare of the public, he or she has continuous authority  
12 to exercise the powers set forth in this division whether or not an  
13 application for a license *or registration* has been filed with the  
14 commissioner, any license *or registration* has been issued, or if  
15 issued, has been surrendered, suspended, or revoked.

16 SEC. 19. Section 22707 of the Financial Code is amended to  
17 read:

18 22707. (a) The cost of each examination of a ~~licensee~~ *licensee*,  
19 *finder*, or ~~a other~~ person subject to this division shall be paid to  
20 the commissioner by the ~~licensee~~ *licensee*, *finder*, or person  
21 examined, and the commissioner may maintain an action for the  
22 recovery of the cost in any court of competent jurisdiction. In  
23 determining the cost of an examination, the commissioner may  
24 use the estimated average hourly cost for all persons performing  
25 examinations of ~~licensees~~ *licensees*, *finders*, or other persons  
26 subject to this division for the fiscal year.

27 (b) For the purpose of this section only, no person other than a  
28 licensee *or a finder* shall be deemed to be a person subject to this  
29 division until the person is determined to be a person subject to  
30 this division by an administrative hearing in accordance with  
31 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
32 3 of Title 2 of the Government Code or by a judicial hearing in  
33 any court of competent jurisdiction.

34 SEC. 20. Section 22707.5 of the Financial Code is amended  
35 to read:

36 22707.5. (a) If, upon inspection, examination, or investigation,  
37 the commissioner has cause to believe that a ~~licensee~~ *licensee*,  
38 *finder*, or other person is violating any provision of this division  
39 or any rule or order thereunder, the commissioner or his or her  
40 designee, may issue a citation to the licensee or person in writing,

1 describing with particularity the basis of the citation. Each citation  
2 may contain an order to correct the violation or violations identified  
3 and provide a reasonable time period or periods by which the  
4 violation or violations must be corrected. In addition, each citation  
5 may assess an administrative fine not to exceed two thousand five  
6 hundred dollars (\$2,500) that shall be deposited in the State  
7 Corporations Fund. In assessing a fine, the commissioner shall  
8 give due consideration to the appropriateness of the amount of the  
9 fine with respect to factors including the gravity of the violation,  
10 the good faith of the ~~person or licensee~~ *person, finder, or licensee*  
11 cited, and the history of previous violations. A citation issued or  
12 a fine assessed pursuant to this section, while constituting  
13 punishment for a violation of law, shall be in lieu of other  
14 administrative discipline by the commissioner for the offense or  
15 offenses cited, and the citation and fine payment thereof by a  
16 licensee *or finder* shall not be reported as disciplinary action taken  
17 by the commissioner.

18 (b) Notwithstanding subdivision (a), nothing in this section shall  
19 prevent the commissioner from issuing an order to desist and  
20 refrain from engaging in a specific business or activity or activities,  
21 or an order to suspend all business operations to a ~~person~~ *person,*  
22 *finder,* or licensee who is engaged in or who has engaged in  
23 continued or repeated violations of this division. In any of these  
24 circumstances, the sanctions authorized under this section shall be  
25 separate from, and in addition to, all other administrative, civil, or  
26 criminal remedies.

27 (c) If, within 30 days from the receipt of the citation, the ~~licensee~~  
28 *licensee, finder,* or person cited fails to notify the department that  
29 he or she intends to request a hearing as described in subdivision  
30 (d), the citation shall be deemed final.

31 (d) Any hearing under this section shall be conducted in  
32 accordance with Chapter 5 (commencing with Section 11500) of  
33 Part 1 of Division 3 of Title 2 of the Government Code.

34 (e) After the exhaustion of the review procedures provided for  
35 in this section, the commissioner may apply to the appropriate  
36 superior court for a judgment in the amount of the administrative  
37 fine and an order compelling the cited ~~licensee~~ *licensee, finder,* or  
38 person to comply with the order of the commissioner. The  
39 application, which shall include a certified copy of the final order

1 of the commissioner, shall constitute a sufficient showing to  
2 warrant the issuance of the judgment and order.

3 SEC. 21. Section 22710 of the Financial Code is amended to  
4 read:

5 22710. The commissioner may upon three days' notice and a  
6 hearing, suspend any license *or registration* for a period not  
7 exceeding 30 days, pending investigation.

8 SEC. 22. Section 22711 of the Financial Code is amended to  
9 read:

10 22711. Any licensee may surrender any ~~license~~ *license, and*  
11 *any finder may surrender a registration*, by delivering to the  
12 commissioner written notice that the licensee *or finder* surrenders  
13 that license *or registration*. Surrender of the license *or registration*  
14 does not affect the licensee's *or finder's* civil or criminal liability  
15 for acts committed prior to surrender of the ~~license~~. *license or*  
16 *registration*.

17 SEC. 23. Section 22712 of the Financial Code is amended to  
18 read:

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

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

1 SEC. 24. Section 22714 of the Financial Code is amended to  
 2 read:

3 22714. (a) The commissioner shall suspend or revoke any  
 4 ~~license~~, *license or registration* upon notice and reasonable  
 5 opportunity to be heard, if the commissioner finds any of the  
 6 following:

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

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

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

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

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

29 SEC. 25. Section 22757 of the Financial Code is amended to  
 30 read:

31 22757. A finance lender, broker, or mortgage loan originator  
 32 licensed under this division shall not pay any commission, fee, or  
 33 other compensation to an unlicensed individual for conducting  
 34 activities that require a license, unless that unlicensed individual  
 35 is exempt from licensure *or is a registered finder* pursuant to this  
 36 division.

37 SEC. 26. No reimbursement is required by this act pursuant to  
 38 Section 6 of Article XIII B of the California Constitution because  
 39 the only costs that may be incurred by a local agency or school  
 40 district will be incurred because this act creates a new crime or



1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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