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1. [2019 Bill Text CA S.B. 472](#)

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2019 Bill Text CA S.B. 472

Amended, August 15, 2019

Reporter

2019 Bill Text CA S.B. 472

Notice

Added: Text highlighted in green

Deleted: Red text with a strikethrough

THE STATE OF CALIFORNIA BILL TEXT > CALIFORNIA 2019-20 REGULAR SESSION > SENATE BILL 472

Progress



FAILED

[Legislative Outlook in detail](#)

Introduced

Passed 1st
Committee

Passed 1st
Chamber

Passed 2nd
Committee

Passed 2nd
Chamber

Enacted



Synopsis

An act to amend ~~Section 22050 of, and to add and repeal Division 21 (commencing with Section 60000) of, the Financial Code,~~ SECTIONS 22001, 22101, 22101.5, 22102, 22103, 22105, 22106, 22107, 22109, 22151, 22152, 22153, 22154, 22155, 22156, 22157, 22159, 22161, 22162, 22163, 22164, 22168, 22169, 22700, 22701, 22706, 22712, 22714, AND 22716 OF, TO ADD SECTIONS 22018.5, 22100.3, 22104.5, AND 22112.5 TO, TO ADD AND REPEAL CHAPTER 2.5 (COMMENCING WITH SECTION 22480) OF DIVISION 9 OF, AND TO ADD AND REPEAL ARTICLE 4 (COMMENCING WITH SECTION 22790) OF CHAPTER 4 OF DIVISION 9 OF, THE FINANCIAL CODE, relating to financial institutions.

Digest

DIGEST:

LEGISLATIVE COUNSEL'S DIGEST

SB 472, as amended, Caballero. ~~Earned income access service providers.~~ WAGE-BASED AND WORK-BASED ADVANCES.

~~Existing~~

(1) EXISTING law provides for licensure and regulation of various financial institutions by the Commissioner of Business Oversight. Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation by the Commissioner of Business Oversight of persons engaged in the business of making or arranging deferred deposit transactions, also known as payday loans, which are transactions whereby a person defers depositing a customer's personal check until a specific date pursuant to a written agreement for a fee or other charge.

Existing law, the California Financing Law (CFL), provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight. The act authorizes several exemptions from its provisions. THE ACT ALSO REQUIRES SPECIFIED LICENSEES TO MAKE AN ANNUAL REPORT TO THE COMMISSIONER, AS SPECIFIED.

This bill would ~~require~~ PROHIBIT A PERSON FROM ENGAGING IN BUSINESS AS a provider, defined as a person engaged in the business of providing wage-based or work-based ~~advances, as defined, to register with~~ ADVANCES WITHOUT FIRST OBTAINING A LICENSE FROM the commissioner and WOULD REQUIRE A PROVIDER to comply with certain bonding, insurance, and disclosure requirements. The bill would require a provider to, among other things, deliver funds to a consumer in a manner mutually agreed upon and prohibit the provider from charging certain ~~fees.~~ FEES AND WOULD REQUIRE A PROVIDER TO MAINTAIN A NET WORTH OF AT LEAST \$250,000. THE BILL WOULD REQUIRE A PROVIDER TO MAKE AN ANNUAL REPORT TO THE COMMISSIONER CONTAINING SPECIFIED INFORMATION, INCLUDING THE TOTAL NUMBER OF WAGE-BASED OR WORK-BASED ADVANCES MADE AND THE TOTAL NUMBER OF WORKERS SERVED. The bill would exempt wage-based and work-based advances from specified provisions under state law, including ~~the CFL and~~ the California Deferred Deposit Transaction Law. ~~This bill would make a person who violates these provisions subject to civil suit and a civil penalty of up to \$2,000 for each violation and would authorize a person claiming to have sustained damage because of a failure to comply with these provisions to file a claim on specified bonds, deposits, or letters of credit to recover the damages.~~ THIS BILL WOULD MAKE A PERSON WHO WILLFULLY VIOLATES THESE PROVISIONS SUBJECT TO A FINE OF NOT MORE THAN \$10,000, IMPRISONMENT IN A COUNTY JAIL FOR NOT MORE THAN ONE YEAR, OR BY BOTH, AS SPECIFIED. BY CREATING A NEW CRIME, THIS BILL WOULD CREATE A STATE-MANDATED LOCAL PROGRAM.

(2) THE CFL PROHIBITS A LICENSEE FROM PLACING AN ADVERTISEMENT DISSEMINATED PRIMARILY IN THIS STATE UNLESS THE LICENSEE DISCLOSES THE LICENSE, IN THE PRINTED OR ORAL TEXT OF THE ADVERTISEMENT, UNDER WHICH THE ADVERTISED LOAN OR ASSESSMENT CONTRACT, AS APPLICABLE, WOULD BE MADE.

THIS BILL WOULD AUTHORIZE THE COMMISSIONER TO EXEMPT, BY RULE OR ORDER, AN ADVERTISEMENT FROM THOSE REQUIREMENTS IF THE ADVERTISING MEDIUM LIMITS THE CHARACTERS OF AN ADVERTISEMENT OR OTHERWISE RENDERS COMPLIANCE WITH THOSE REQUIREMENTS IMPRACTICABLE. THE BILL WOULD ALSO MAKE CONFORMING CHANGES TO THOSE PROVISIONS.

(3) THE CFL AUTHORIZES THE COMMISSIONER TO ORDER A PERSON ENGAGED IN BUSINESS REGULATED BY THE CFL WITHOUT A LICENSE TO DESIST AND TO REFRAIN FROM ENGAGING IN THE BUSINESS AND FURTHER CONTINUING THAT VIOLATION.

THIS BILL WOULD AUTHORIZE THE COMMISSIONER TO INCLUDE A CLAIM FOR ANCILLARY RELIEF, AS SPECIFIED, IN AN ORDER TO DESIST OR REFRAIN.

(4) THIS BILL WOULD PROVIDE THAT THE PROVISIONS OF THE CFL ARE SEVERABLE.

(5) 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 Required: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: ~~NO~~ YES Immediate Effect
NO Urgency: NO Tax Levy: NO Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: NO

Text

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

SECTION 1. SECTION 22001 OF THE FINANCIAL CODE IS AMENDED TO READ:

22001.

(a)

This division shall be liberally construed and applied to promote its underlying purposes and policies, which are:

(1)

To ensure an adequate supply of ~~credit to borrowers~~ AFFORDABLE FINANCIAL PRODUCTS TO CONSUMERS, WORKERS, PROPERTY OWNERS, AND BUSINESSES in this state.

(2)

To simplify, clarify, and modernize the law governing ~~loans made by finance lenders~~ CONSUMER AND COMMERCIAL FINANCE.

(3)

To foster competition among ~~finance lenders~~ THOSE PROVIDING FINANCIAL SERVICES IN THIS STATE.

(4)

To protect ~~borrowers~~ CONSUMERS, WORKERS, PROPERTY OWNERS, AND BUSINESSES against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous ~~lenders~~ BUSINESSES.

(5)

To permit and encourage the development of fair and economically sound ~~lending practices~~ PRACTICES IN CONSUMER AND COMMERCIAL FINANCE.

(6)

To encourage and foster a sound economic climate in this state.

(7)

To protect property owners from deceptive and misleading practices that threaten the efficacy and viability of property assessed clean energy financing programs.

(b)

Consumer loans, as defined in Sections 22203 and 22204, are subject to this chapter, Chapter 2 (commencing with Section 22200), Article 1 (commencing with Section 22700) of Chapter 4, and Article 2 (commencing with Section 22750) of Chapter 4.

(c)

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Commercial loans, as defined in Section 22502, are subject to this chapter, Chapter 3 (commencing with Section 22500), Article 1 (commencing with Section 22700) of Chapter 4, and Article 3 (commencing with Section 22780) of Chapter 4.

(d)

A program administrator, as defined in Section 22018, is subject to this chapter, Chapter 3.5 (commencing with Section 22680), and Article 1 (commencing with Section 22700) of Chapter 4.

~~-(e) This section shall become operative on January 1, 2019.~~

(E)

PROVIDERS, WAGE-BASED ADVANCES, AND WORK-BASED ADVANCES, AS EACH OF THOSE TERMS IS DEFINED BY SECTION 22481, ARE SUBJECT TO THIS ARTICLE (COMMENCING WITH SECTION 22000), ARTICLE 3 (COMMENCING WITH SECTION 22100), ARTICLE 4 (COMMENCING WITH SECTION 22150), CHAPTER 2.5 (COMMENCING WITH SECTION 22480), ARTICLE 1 (COMMENCING WITH SECTION 22700) OF CHAPTER 4, AND ARTICLE 4 OF CHAPTER 4 (COMMENCING WITH SECTION 22790).

(F)

THE PROVISIONS OF THIS DIVISION ARE SEVERABLE. IF ANY PROVISION OF THIS DIVISION OR ITS APPLICATION IS HELD INVALID, THAT INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

~~SECTION 1. Section 22050 of the Financial Code is amended to read:~~

~~22050. (a) This division does not apply to any person doing business under any law of any state or of the United States relating to banks, trust companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, community advantage lenders, California business and industrial development corporations when acting under federal law or other state authority, or licensed pawnbrokers when acting under the authority of that license.~~

~~"Community advantage lender" means an entity authorized by the United States Small Business Administration to deliver community advantage loans.~~

~~(b) This division does not apply to a check-casher who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit, and shall not apply to a person holding a valid license issued pursuant to Section 23005 of the Financial Code when acting under the authority of that license.~~

~~(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.~~

~~(d) This division does not apply to a broker-dealer acting pursuant to a certificate then in effect and issued pursuant to Section 25211 of the Corporations Code.~~

~~(e) This division does not apply to any person who makes five or fewer loans in a 12-month period, these loans are commercial loans as defined in Section 22502, and the loans are incidental to the business of the person relying upon the exemption.~~

~~(f) This division does not apply to any public corporation as defined in Section 67510 of the Government Code, any public entity other than the state as defined in Section 811.2 of the Government Code, or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal and state laws and regulations.~~

~~-(g) This division does not apply to the provision pursuant to Division 21 (commencing with Section 60000) of a wage-based advance or work-based advance, as those terms are defined in Section 60001.~~

SEC. 2. SECTION 22018.5 IS ADDED TO THE FINANCIAL CODE, TO READ:

22018.5.

(a)

"Provider" has the same meaning as defined in Section 22481, unless the context clearly indicates otherwise.

(b)

This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 3. SECTION 22100.3 IS ADDED TO THE FINANCIAL CODE, TO READ:

22100.3.

A person shall not engage in the business of a provider without first obtaining a license to do so from the commissioner.

SEC. 4.

SECTION 22101 OF THE FINANCIAL CODE IS AMENDED TO READ:

22101.

(a)

An application for a license as a finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** under this division shall be in the form and contain the information that the commissioner may by rule or order require and shall be filed upon payment of the fee specified in Section 22103.

(b)

Notwithstanding any other law, an applicant who does not currently hold a license as a finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** under this division shall furnish, with ~~his or her~~ **THE APPLICANT'S** application, a full set of fingerprints and related information for purposes of the commissioner conducting a criminal history record check. The commissioner shall obtain and receive criminal history information from the Department of Justice and the Federal Bureau of Investigation pursuant to Section 22101.5.

(c)

This section does not prevent a licensee from engaging in the business of a finance lender ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** through a subsidiary corporation if the subsidiary corporation is licensed pursuant to this division.

(d)

For purposes of this section, "subsidiary corporation" means a corporation that is wholly owned by a licensee.

(e)

A new application shall not be required for a change in the address of an existing location previously licensed under this division. However, the licensee shall comply with the requirements of Section 22153.

(f)

Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require an application to be made through the Nationwide ~~Mortgage~~ **MULTISTATE** Licensing System and Registry, and may require fees, fingerprints, financial statements, supporting documents, changes

of address, and any other information, and amendments or modifications thereto, to be submitted in the same manner.

(g)

Notwithstanding any other law, the commissioner may by rule or order prescribe circumstances under which to accept electronic records or electronic signatures. This section does not require the commissioner to accept electronic records or electronic signatures.

(h)

For purposes of this section, the following terms have the following meanings:

(1)

"Electronic record" means an initial license application, or material modification of that license application, and any other record created, generated, sent, communicated, received, or stored by electronic means. "Electronic records" also includes, but is not limited to, all of the following:

(A)

An application, amendment, supplement, and exhibit, filed for any license, consent, or other authority.

(B)

A financial statement, a report, or advertising.

(C)

An order, license, consent, or other authority.

(D)

A notice of public hearing, accusation, and statement of issues in connection with any application, license, consent, or other authority.

(E)

A proposed decision of a hearing officer and a decision of the commissioner.

(F)

The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record.

(G)

A release, newsletter, interpretive opinion, determination, or specific ruling.

(H)

Correspondence between a party and the commissioner directly relating to any document listed in subparagraphs (A) to (G), inclusive.

(2)

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(i)

The Legislature finds and declares that the Department of Business Oversight has continuously implemented methods to accept records filed electronically, and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget, resources, and equipment are made available to accomplish that goal.

~~-(j) This section shall become operative on January 1, 2019.~~

SEC. 5. SECTION 22101.5 OF THE FINANCIAL CODE IS AMENDED TO READ:

22101.5.

(a)

The commissioner shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** license candidates, as defined by subdivision (a) of Section 22101, for purposes of obtaining information as to the existence and content of a record of state or federal convictions, state or federal arrests, and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on ~~his or her~~ **THE PERSON'S** own recognizance pending trial or appeal.

(b)

When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the commissioner.

(c)

The Department of Justice shall provide a response to the commissioner pursuant to paragraph (1) of subdivision (p) of [Section 11105 of the Penal Code](#).

(d)

The commissioner shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to [Section 11105.2 of the Penal Code](#), for license candidates described in subdivision (a).

(e)

The Department of Justice shall charge a fee sufficient to cover the costs of processing the requests pursuant to this section.

(f)

Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require fingerprints submitted by an applicant to be submitted to the Nationwide ~~Mortgage~~ **MULTISTATE** Licensing System and Registry in addition to the Department of Justice.

~~(g) This section shall become operative on January 1, 2019.~~

SEC. 6. [SECTION 22102 OF THE FINANCIAL CODE IS AMENDED TO READ:](#)

22102.

(a)

A finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** licensee seeking to engage in business at a new location shall submit an application for a branch office license to the commissioner at least 10 days before engaging in business at a new location and pay the fee required by Section 22103. The commissioner may require an applicant seeking to engage in business at a new location to submit its application, or parts thereof, through the Nationwide ~~Mortgage~~ **MULTISTATE** Licensing System and Registry.

(b)

The licensee may engage in business at the new location 10 days after the date of submission of a branch office application.

(c)

(1)

The commissioner shall approve or deny the person responsible for the ~~lending activity~~ **LICENSABLE ACTIVITIES** at the new location in accordance with Section 22109, and shall notify the licensee of this decision within 90 days of the date of receipt of the application.

(2)

If the commissioner denies the application, the licensee shall, within 10 days of the date of receipt of notification of the commissioner's denial, submit a new application to the commissioner designating a different person responsible for the ~~lending activity~~ **LICENSABLE ACTIVITIES** at the new location. The commissioner shall approve or deny the different person as provided in paragraph (1).

(d)

A licensee shall not engage in business at a new location in a name other than a name approved by the commissioner.

(e)

The commissioner may adopt regulations to implement the requirements of this section.

(f)

A branch office license to engage in business at a new location shall be issued in accordance with this section. A change of street address of a place of business designated in a license shall be made in accordance with Section 22153 and shall not constitute a new location subject to the requirements of this section.

~~-(g) This section shall become operative on January 1, 2019.~~

SEC. 7. SECTION 22103 OF THE FINANCIAL CODE IS AMENDED TO READ:

22103. (a)

At the time of filing the application for a finance lender, broker, program administrator, **PROVIDER**, or branch office license, the applicant shall pay to the commissioner the sum of one hundred dollars (\$100) as a fee for investigating the application, plus the cost of fingerprint processing and the criminal history record check under Section 22101.5, and two hundred dollars (\$200) as an application fee. The investigation fee, including the amount for the criminal history record check, and the application fee are not refundable if an application is denied or withdrawn.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 8. SECTION 22104.5 IS ADDED TO THE FINANCIAL CODE, TO READ:

22104.5.

(a)

An applicant for a provider license shall file with its application the following:

(b)

Financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner that indicate a net worth of at least two hundred fifty thousand dollars (\$250,000).

(c)

If the applicant that will have custody of worker payroll funds through a custodial account or otherwise as described in subdivision (c) of Section 22112.5, financial statements audited within the prior 120 days by a certified public accountant.

SEC. 9. SECTION 22105 OF THE FINANCIAL CODE IS AMENDED TO READ:

22105.

(a)

Upon the filing of an application pursuant to Section 22101 and the payment of the fees, the commissioner shall investigate the applicant and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or any person responsible for the conduct of the applicant's ~~lending or program administration activities in this~~

~~state,~~ **LICENSABLE ACTIVITIES UNDER THIS DIVISION,** if the applicant is a partnership. If the applicant is a corporation, trust, limited liability company, or association, including an unincorporated organization, the commissioner shall investigate the applicant, its principal officers, directors, managing members, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities or any person responsible for the conduct of the applicant's ~~lending activities or for administering PACE programs for the applicant in this state.~~ **LICENSABLE ACTIVITIES UNDER THIS DIVISION.** Upon the filing of an application pursuant to Section 22102 and the payment of the fees, the commissioner shall investigate the person responsible for the ~~lending activity~~ **LICENSABLE ACTIVITIES** of the licensee, ~~or for administering one or more PACE programs for the licensee,~~ at the new location described in the application. The investigation may be limited to information that was not included in prior applications filed pursuant to this division. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 22109, the commissioner shall issue and deliver a license to the applicant.

(b)

For the purposes of this section, "principal officers" shall mean president, chief executive officer, treasurer, and chief financial officer, as may be applicable, and any other officer with direct responsibility for the conduct of the applicant's ~~lending activities or for PACE program administration for the applicant within the state.~~ **LICENSABLE ACTIVITIES UNDER THIS DIVISION.**

~~(c) This section shall become operative on January 1, 2019.~~

SEC. 10. SECTION 22106 OF THE FINANCIAL CODE IS AMENDED TO READ:

22106.

(a)

The finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization, and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 22101 or 22102, the commissioner shall issue ~~an original license~~ **A LICENSE, WHICH MAY BE IN AN ELECTRONIC FORMAT,** endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a finance lender, broker, ~~or program administrator.~~ **PROGRAM ADMINISTRATOR, OR PROVIDER.**

(b)

(1)

An application for a license for a business location outside this state shall constitute an agreement by the applicant to do all of the following:

(A)

Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(B)

Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

(2)

A licensee located outside this state is not required to maintain books and records regarding ~~licensed loans~~ **LICENSABLE ACTIVITIES** separate from those for other ~~loans~~ **TRANSACTIONS** if the ~~licensed loans~~ **LICENSABLE ACTIVITIES** can be readily identified.

~~(c) This section shall become operative on January 1, 2019.~~

SEC. 11. SECTION 22107 OF THE FINANCIAL CODE IS AMENDED TO READ:

22107.

(a)

Each finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** licensee shall pay to the commissioner its pro rata share of all costs and expenses, including the costs and expenses associated with the licensing of mortgage loan originators it employs, reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion that a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner, for the costs and expenses remaining after the amount assessed pursuant to subdivision (c).

(b)

On or before September 30th in each year, the commissioner shall notify each licensee of the amount assessed and levied against it and that amount shall be paid by October 31. If payment is not made by October 31, the commissioner shall assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c)

In the levying and collection of the assessment, a licensee shall neither be assessed for nor be permitted to pay less than two hundred fifty dollars (\$250) per licensed location per year.

(d)

If a licensee fails to pay the assessment on or before the October 31st, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for a hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** licensee and any mortgage loan originator licensee employed by the finance lender or broker shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(e)

The commissioner shall, by rule, establish the timelines, fees, and assessments applicable to applicants for original mortgage loan originator licenses, license renewals, and license changes under this division.

(f)

Notwithstanding subdivisions (a) to (e), inclusive, the commissioner may by rule require licensees to pay assessments through the Nationwide ~~Mortgage~~ **MULTISTATE** Licensing System and Registry.

~~(g) This section shall become operative on January 1, 2019.~~

SEC. 12. SECTION 22109 OF THE FINANCIAL CODE IS AMENDED TO READ:

22109.

(a)

Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a finance lender, broker, ~~or program administrator~~ **PROGRAM ADMINISTRATOR, OR PROVIDER** license for any of the following reasons:

(1)

A false statement of a material fact has been made in the application.

(2)

The applicant or an officer, director, general partner, person responsible for the applicant's ~~lending activities or administering PACE programs for the applicant in this state,~~ **LICENSABLE ACTIVITIES UNDER THIS DIVISION** or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3)

The applicant or an officer, director, general partner, person responsible for the applicant's ~~lending activities or administering PACE programs for the applicant in this state,~~ **LICENSABLE ACTIVITIES UNDER THIS DIVISION** or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

(4)

The applicant employs a mortgage loan originator who is not licensed, or has not initiated an application to become licensed, pursuant to this division.

(b)

The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c)

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

~~-(d) This section shall become operative on January 1, 2019.~~

SEC. 1

3.

SECTION 22112.5 IS ADDED TO THE FINANCIAL CODE, TO READ:

22112.5.

A provider shall at all times comply with all of the following:

(a)

Maintain a minimum net worth, excluding assets that exist to satisfy the requirements of subdivision (b), (c), or (d) of at least two hundred fifty thousand dollars (\$250,000) as determined by generally accepted accounting standards.

(b)

Comply with one of the following:

(1)

Maintain a fidelity bond or bonds in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, executed by an insurer authorized to do business in this state or an eligible surplus line insurer pursuant to [Section 1765.1 of the Insurance Code](#). Upon the request of a provider, the commissioner may reduce the amount of the fidelity bond required by this paragraph upon a finding that the greater amount required by this subdivision is not necessary for the protection of worker payroll funds.

(2)

Deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, in an insured escrow account at a depository institution of the provider's choice. Interest on the amount described in this paragraph shall accrue to the provider. Funds placed on deposit pursuant to this paragraph may be withdrawn pursuant only to a court order, an order of the commissioner, or as otherwise specified by the commissioner by rule.

(c)

A provider that has custody of worker payroll funds through a custodial account or otherwise shall maintain a fidelity bond or bonds in an amount of not less than one-sixth of the average amount of worker payroll funds received monthly in a custodial account during the final six months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or the amount specified in paragraph (1) of subdivision (b), whichever is greater. Upon the request of a provider, the commissioner may reduce the amount of the fidelity bond required by this subdivision upon a finding that the greater amount required by this subdivision is not necessary for the protection of worker payroll funds.

(d)

Comply with one of the following:

(1)

Maintain a policy of errors and omissions insurance in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, executed by an insurer authorized to do business in this state or an eligible surplus line insurer pursuant to [Section 1765.1 of the Insurance Code](#). Upon the request of a provider, the commissioner may reduce the amount of the fidelity bond required by this subdivision upon a finding that the greater amount required by this subdivision is not necessary for the protection of worker payroll funds.

(2)

Deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, in an insured escrow account at a depository institution of the provider's choice. Interest on the amount described in this paragraph shall accrue to the provider. Funds placed on deposit pursuant to this paragraph may be withdrawn pursuant only to a court order, an order of the commissioner, or as otherwise specified by the commissioner by rule.

(e)

The requirements of subdivisions (a) to (d), inclusive, are independent of one another, and an action taken to satisfy one of those subdivisions shall not be construed to satisfy the requirements of any other requirement of this section.

(f)

In an application for licensure, and in the annual report described in Section 22486, a person who engages in business as a provider shall submit proof satisfactory to the commissioner that the person is satisfying the requirements of subdivisions (a) to (d), inclusive.

(g)

(1)

Except as provided in paragraph (2), on an annual basis, a person who engages in business as a provider shall submit to the commissioner a report, certified by an independent public accountant, that contains audited financial statements covering the calendar year or, if the provider has an established fiscal year, then for that fiscal year, within 105 days after the close of the calendar or fiscal year, as applicable. The commissioner may, pursuant to paragraph (2) of subdivision (d) of [Section 6254 of the Government Code](#), choose not to disclose a record submitted pursuant to this section.

(2)

A person who engages in business as a provider who does not have custody of worker payroll funds through a custodial account or otherwise and who has been incorporated for less than three years as of the date on which audited financial statements are required to be submitted pursuant to this section may submit financial statements reviewed by an independent public accountant in lieu of audited financial statements.

(h)

A person claiming to have sustained damage from a provider's violation of this division may file a claim on the bonds, deposits, or letters of credit described in this section to recover the damages subject to the terms and conditions of the bonds, deposits, or letters of credit.

SEC. 14. [SECTION 22151 OF THE FINANCIAL CODE IS AMENDED TO READ:](#)

22151.

(a)

A finance lender license, broker license, program administrator license, **PROVIDER LICENSE**, and the license of every mortgage loan originator employed by a lender or finance broker, along with any currently effective order of the commissioner approving a different name pursuant to Section 22155, shall be conspicuously posted in the place of business authorized by the license. **IN THE ALTERNATIVE, THE COMMISSIONER MAY AUTHORIZE A LICENSEE THAT DOES NOT ROUTINELY CONDUCT BUSINESS AT A PHYSICAL LOCATION TO POST ITS LICENSE IN ANOTHER LOCATION, INCLUDING, BUT NOT LIMITED TO, ITS INTERNET WEBSITE OR WITHIN AN APPLICATION DOWNLOADED TO A MOBILE OR OTHER ELECTRONIC DEVICE.**

(b)

A license is not transferable or assignable. A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

~~-(c) This section shall become operative on January 1, 2019.~~

SEC. 1

5.

SECTION 22152 OF THE FINANCIAL CODE IS AMENDED TO READ:

22152. (a)

A finance lender, broker, ~~or program administrator~~ PROGRAM ADMINISTRATOR, OR PROVIDER licensee shall maintain only one place of business under a duplicate or original license issued pursuant to Section 22101 or 22102. The commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this division governing an original issuance of a license.

~~(b) This section shall become operative on January 1, 2019.~~

SEC. 16. SECTION 22153 OF THE FINANCIAL CODE IS AMENDED TO READ:

22153.

(a)

If a finance lender, broker, ~~or program administrator~~ PROGRAM ADMINISTRATOR, OR PROVIDER licensee seeks to change its place of business to a street address other than that designated in its license, the licensee shall provide notice to the commissioner at least 10 days before the change. The commissioner shall notify the licensee within 10 days if the commissioner disapproves the change, and if the commissioner does not notify the licensee of disapproval within 10 days, the change in address shall be deemed approved. The commissioner may require an applicant to submit its application to change its place of business through the Nationwide ~~Mortgage~~ MULTISTATE Licensing System and Registry.

(b)

If notice is not given at least 10 days before the change of a street address of a place of business, as required by subdivision (a), or notice is not given at least 10 days before engaging in business at a new location, as required by Section 22102, the commissioner may assess a civil or administrative penalty on the licensee not to exceed five hundred dollars (\$500).

~~(c) This section shall become operative on January 1, 2019.~~

SEC. 17. SECTION 22154 OF THE FINANCIAL CODE IS AMENDED TO READ:

22154.

(a)

A licensee shall not conduct the business ~~of making loans or administering a PACE program~~ LICENSED under this division within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as is authorized in writing by the commissioner upon the commissioner's finding that the character of the other business is such that the granting of the authority would not facilitate evasions of this division or of the rules and regulations made pursuant to this division. An authorization, once granted, remains in effect until revoked by the commissioner. The commissioner may authorize the other business through the Nationwide ~~Mortgage~~ MULTISTATE Licensing System and Registry.

(b)

The products or services of an affiliated corporation of the licensee that is a supervised financial institution, or a parent or subsidiary of a supervised financial institution that is an affiliate of the licensee, may be provided, offered, or sold at the licensed location of the licensee without authorization by the commissioner pursuant to subdivision (a) if both of the following are met:

(1)

The activity is not prohibited by, or in violation of, the laws applicable to the affiliate or supervised financial institution.

(2)

The products and services are not offered and sold in a manner that **restricts** the ability of the borrower or customer to individually select or reject a product or service that is offered.

(c)

The following definitions govern the construction of this section:

(1)

"Affiliated" or "affiliate" means the following: A corporation is an affiliate of, or a corporation is affiliated with, another specified corporation if it directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other specified corporation.

(2)

"Supervised financial institution" means any commercial bank, industrial bank, credit card bank, trust company, savings and loan association, savings bank, credit union, California finance lender, residential mortgage lender or servicer, or insurer, provided that the institution is subject to supervision by an official or agency of this state or of the United States.

~~-(d) This section shall become operative on January 1, 2019.~~

SEC. 18. SECTION 22155 OF THE FINANCIAL CODE IS AMENDED TO READ:

22155. (a)

A finance lender, broker, mortgage loan originator, ~~—or program administrator—~~ **PROGRAM ADMINISTRATOR, PROVIDER** licensee shall not transact the business licensed ~~—or make any loan or administer any PACE program provided for by—~~ **UNDER** this division under any other name or at any other place of business than that named in the license except pursuant to a currently effective written order of the commissioner authorizing the other name or other place of business. The commissioner's order, while effective, shall be deemed to amend the original license issued pursuant to Section 22105 or 22109.1. Notwithstanding any provision of this section, a finance lender, program administrator, broker, **PROVIDER** or mortgage loan originator licensee may ~~—make any loan and engage in any other business provided for by—~~ **TRANSACTION THE BUSINESS LICENSED UNDER** this division, other than the business described in subdivision (b) of Section 22154, at a place other than the licensed location under either of the following conditions:

(1)

The ~~—borrower—~~ **BORROWER, PROPERTY OWNER, OR WORKER** requests, either orally or in writing, that a ~~—loan—~~ **LICENSABLE TRANSACTION** be initiated or made at a location other than the licensee's licensed location. The use by the licensee of a preprinted solicitation form returned to the licensee by the ~~—borrower—~~ **BORROWER, PROPERTY OWNER, OR WORKER** shall not constitute a request by ~~—the borrower—~~ **THAT PERSON** that a ~~—loan—~~ **LICENSABLE TRANSACTION** be initiated or made at a location other than the licensee's licensed location.

(2)

The licensee makes a solicitation or advertises for, or makes an offer ~~—of, a loan or assessment contract—~~ **FOR, A LICENSABLE TRANSACTION** displayed on "home pages" or similar methods by the licensee on the ~~—Internet—~~ **INTERNET**, the World Wide Web, or similar proprietary or common carrier electronic systems, and the prospective ~~—borrower—~~ **BORROWER, WORKER**, or property owner may transmit information over these electronic systems to the licensee in connection with the licensee's ~~—offer to make a loan or assessment contract—~~ **OFFER.**

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 19. SECTION 22156 OF THE FINANCIAL CODE IS AMENDED TO READ:

22156. (a)

Finance lender, broker, program administrator, **PROVIDER**, and mortgage loan originator licensees shall keep and use in their business, books, accounts, and records which will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations made by the commissioner. On any loan secured by real property in which loan proceeds were disbursed to an independent escrowholder, the licensee shall retain records and documents as

set forth by rules of the commissioner adopted pursuant to Section 22150. Upon request of the commissioner, licensees shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to [Section 7473 of the Government Code](#).

~~(b) This section shall become operative on January 1, 2019.~~

SEC. 20. [SECTION 22157 OF THE FINANCIAL CODE IS AMENDED TO READ:](#)

22157.

(a)

Finance lender, broker, PROVIDER, and mortgage loan originator licensees shall preserve their books, accounts, and records, if any, for at least three years after making the final entry on any ~~loan-~~ LICENSABLE TRANSACTION recorded therein.

(b)

Except as otherwise specified by applicable law, including paragraph (3) of subdivision (b) of *Section 5913 of the Streets and Highways Code*, program administrator licensees shall preserve their books, accounts, and records for at least three years after the extinguishment of a PACE assessment is recorded therein.

~~(c) This section shall become operative on January 1, 2019.~~

SEC. 21. [SECTION 22159 OF THE FINANCIAL CODE IS AMENDED TO READ:](#)

22159.

(a)

Each finance lender, broker, PROVIDER, and program administrator licensee shall file an annual report with the commissioner, on or before March 15th, giving the relevant information that the commissioner reasonably requires concerning the business and operations conducted by the licensee or authorized by the program administrator licensee within the state during the preceding calendar year for each licensed place of business. The individual annual reports filed pursuant to this section shall be made available to the public for inspection except, upon request in the annual report to the commissioner, the balance sheet contained in the annual report of a sole proprietor or any other nonpublicly traded person. "Nonpublicly traded person" for purposes of this section means persons with securities owned by 35 or fewer individuals. The report shall be made under oath and in the form prescribed by the commissioner.

(b)

A licensee shall make other special reports that may be required by the commissioner.

(c)

The commissioner may require a licensee that employs one or more mortgage loan originators to submit to the Nationwide~~-Mortgage-~~ MULTISTATE Licensing System and Registry reports of condition, which shall be in the form and shall contain the information as the Nationwide~~-Mortgage-~~ MULTISTATE Licensing System and Registry may require.

(d)

The commissioner may by rule or order require a mortgage loan originator to submit reports of condition to the Nationwide~~-Mortgage-~~ MULTISTATE Licensing System and Registry, in lieu of the reports of condition required of ~~his or her-~~ THE LOAN ORIGINATOR'S employer pursuant to subdivision (c).

~~(e) This section shall become operative on January 1, 2019.~~

(E)

A PROVIDER'S ANNUAL REPORT SHALL CONTAIN THE INFORMATION REQUIRED BY SECTION 22486.

SEC. 22. SECTION 22161 OF THE FINANCIAL CODE IS AMENDED TO READ:

22161. (a)

A person subject to this division shall not do any of the following:

~~-(1)~~

(A)

Make a materially false or misleading statement or representation to a ~~borrower~~ **BORROWER, WORKER, OR PROPERTY OWNER** about the terms or conditions of ~~that borrower's loan, when making or brokering the loan.~~ **A PRODUCT THAT IS SUBJECT TO THIS DIVISION.**

~~-(2) Make a materially false or misleading statement or representation to a property owner about the terms or conditions of an assessment contract.~~

~~-(3)~~

(B)

Advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement or representation with regard to the business subject to the provisions of this division, including the rates, terms, or conditions for making or negotiating ~~loans, or for making or negotiating assessment contracts,~~ **CONTRACTS SUBJECT TO THIS DIVISION,** that is false, misleading, or deceptive, or that omits material information that is necessary to make the statements not false, misleading, or deceptive, or in the case of a licensee, that refers to the supervision of the business by the state or any department or official of the state.

~~-(4)~~

(C)

Commit an act in violation of Section 1695.13 of the Civil Code.

~~-(5)~~

(D)

Engage in any act in violation of Section 17200 of the Business and Professions Code.

~~-(6)~~

(E)

Knowingly misrepresent, circumvent, or conceal, through subterfuge or device, any material aspect or information regarding a transaction to which the person is a party.

~~-(7)~~

(F)

Commit an act that constitutes fraud or dishonest dealings.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 23. SECTION 22162 OF THE FINANCIAL CODE IS AMENDED TO READ:

22162.

(a)

A ~~finance lender, broker, or mortgage loan originator~~ licensee shall not place an advertisement disseminated primarily in this state for a ~~loan~~ **PRODUCT SUBJECT TO THIS DIVISION** unless the licensee discloses in the printed text of the advertisement, or in the oral text in the case of a radio or television advertisement, the license under which the ~~loan~~ **PRODUCT** would be made or arranged.

~~-(b) A program administrator licensee shall not place an advertisement disseminated primarily in this state for an assessment contract unless the licensee discloses in the printed text of the advertisement, or in the oral text in the case of a radio or television advertisement, the license under which the assessment contract would be administered.~~

~~-(c) This section shall become operative on January 1, 2019.~~

(B)

THE COMMISSIONER MAY BY RULE OR ORDER EXEMPT AN ADVERTISEMENT FROM THE REQUIREMENTS OF SUBDIVISION (A), IN WHOLE OR WITH CONDITIONS, IF THE ADVERTISING MEDIUM LIMITS THE CHARACTERS OF AN ADVERTISEMENT OR OTHERWISE RENDERS COMPLIANCE WITH SUBDIVISION (A) IMPRACTICABLE.

SEC. 24. SECTION 22163 OF THE FINANCIAL CODE IS AMENDED TO READ:

22163. (a)

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in the manner that the commissioner deems necessary to prevent misunderstanding by prospective ~~borrowers or~~ BORROWERS, WORKERS, OR property owners.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 25. SECTION 22164 OF THE FINANCIAL CODE IS AMENDED TO READ:

22164. (a)

If any person engaged in the business regulated by this division refers in any advertising to rates of interest, charges, or cost of ~~loans or assessment contracts, the commissioner shall require that the~~ rates, charges, or costs ~~are~~ SHALL BE stated fully and ~~clearly in the manner that he or she~~ CLEARLY. THE COMMISSIONER MAY, BY RULE, SET FORTH THE MANNER OF ADVERTISING RATES OF INTEREST, CHARGES, OR COST OF PRODUCTS SUBJECT TO THIS DIVISION THAT THE COMMISSIONER deems necessary to give adequate information to prospective ~~borrowers~~ BORROWERS, WORKERS, or property owners. If the rates or costs advertised do not apply to ~~loans or assessment contracts~~ PRODUCTS of all classes made or negotiated by the person, this fact shall be clearly indicated in the advertisement.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 26. SECTION 22168 OF THE FINANCIAL CODE IS AMENDED TO READ:

22168.

(a)

The commissioner may, after appropriate notice and opportunity for hearing, suspend for a period not to exceed 12 months or bar a person from any position of employment with a licensee if the commissioner finds that the person has willfully used or claimed without authority a designation or certification of special education, practice, or skill that the person has not attained, or willfully held out to the public a confusingly similar designation or certification for the purpose of misleading the public regarding ~~his or her~~ THE PERSON'S qualifications or experience.

(b)

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

(c)

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

(d)

Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed finance lender, broker, PROVIDER, program administrator, or mortgage loan originator, and from engaging in any business activity on the premises where a licensed finance lender, broker, PROVIDER, program administrator, or mortgage loan originator is conducting its business. This subdivision does not prohibit suspended or barred persons from having their personal transactions processed by a licensed finance lender, broker, PROVIDER, mortgage loan originator, or program administrator.

~~-(e) This section shall become operative on January 1, 2019.~~

SEC. 27. SECTION 22169 OF THE FINANCIAL CODE IS AMENDED TO READ:

22169.

(a)

The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar a person, including a mortgage loan originator, from any position of employment with, or management or control of, any finance lender, broker, program administrator, PROVIDER, or any other person, if the commissioner finds either of the following:

(1)

That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the finance lender, broker, program administrator, PROVIDER, or mortgage loan originator, or to the public.

(2)

That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b)

Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a) or (b), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with [Section 11400](#)) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c)

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

(d)

Persons suspended or barred under this section are prohibited from participating in any business activity of a finance lender, broker, program administrator, PROVIDER, or mortgage loan originator, and from engaging in any business activity on the premises where a finance lender, broker, program administrator, PROVIDER, or mortgage loan originator is conducting business.

~~(e) This section shall become operative on January 1, 2019.~~

SEC. 28. CHAPTER 2.5 (COMMENCING WITH SECTION 22480) IS ADDED TO DIVISION 9 OF THE FINANCIAL CODE, TO READ:

2.5.

Wage-Based and Work-Based Advances

22480.

(a)

It is the intent of the Legislature that this act accomplish all of the following:

(1)

Protect the interests of workers in this state who avail themselves of wage-based and work-based advances.

(2)

Provide for the safe, efficient, and orderly conduct of the business of providing wage-based and work-based advances.

(3)

Exempt wage-based and work-based advance providers from the California Deferred Deposit Transaction Law (Division 10 (commencing with Section 23000)), the Money Transmission Act (Division 1.2 (commencing with Section 2000)), and certain provisions of the California Financing Law (Division 9 (commencing with Section 22000)) if the provider delivers wage-based or work-based advances in accordance with a contract that complies with this chapter.

(4)

Maintain public confidence in providers of wage-based and work-based advances and foster the growth of those advances as an alternative to other high-cost options.

(5)

Prohibit both employers and persons that retain independent contractors from directly profiting from workers' use of wage-based and work-based advances.

(6)

Establish a licensure administered by the Commissioner of Business Oversight that will allow providers of wage-based and work-based advances to engage in certain activities not otherwise authorized under the California Financing Law and Deferred Deposit Transaction Law.

(b)

It is not the intent of the Legislature to modify the applicability of this division with respect to a product not specifically regulated by this chapter.

22481.

For purposes of this chapter, the following definitions shall apply:

(a)

"Delivery" means the delivery of funds to a worker by a provider.

(b)

(1)

"Obligor" means either of the following:

(A)

An employer.

(B)

A person, including an independent contractor, who is not an employer but who is contractually obligated to pay the worker a sum of money on an hourly, project-based, piecework, or other basis for labor or services provided by the worker to or on behalf of the other person.

(2)

"Obligor" does not include a customer of an obligor or other third party whose obligation to make a payment to a worker is based solely on the worker's agency relationship with the obligor.

(c)

"Payment" means money or other consideration paid by a worker to a provider that is directly related to the provision of wage-based or work-based advances, including, but not limited to, a payment for an expedited transfer.

(d)

"Payroll services provider" means a person that assists a business in meeting its payroll administration obligations by collecting information on employees and independent contractors, hours worked, pay rates, deductions, and other payroll-related data from the business and uses that information to prepare paychecks, wage statements, and related reports for the employees employed by or the independent contractors retained by the business.

(e)

"Provider" means a person that is engaged in the business of delivering wage-based or work-based advances. "Provider" does not include a payroll services provider, unless that payroll services provider is separately engaged in the business of delivering wage-based or work-based advances.

(f)

"Providing wage-based or work-based advances" means the delivery to a worker of a wage-based advance or a work-based advance.

(g)

"Wage-based advance" or "work-based advance" means funds advanced to a worker by a provider that are based on wages or compensation the worker has represented, and that the provider has reasonably determined, have been earned but have not, at the time of the advance, been paid to the worker for work performed for or on behalf of an obligor.

(h)

"Worker" means a natural person who has earned wages or compensation in this state as an employee or an independent contractor.

22482.

(a)

Division 1.2 (commencing with Section 2000) and Division 10 (commencing with Section 23000) shall not apply to providing a wage-based advance or a work-based advance to a worker.

(b)

Chapter 2 (commencing with Section 22200), Chapter 3 (commencing with Section 22500), Chapter 3.5 (commencing with Section 22680), Article 2 (commencing with Section 22050) of Chapter 1, and Article 2 (commencing with Section 22750) and Article 3 (commencing with Section

22780) of Chapter 4, shall not apply to a provider of wage-based and work-based advances to workers.

(c)

A provider's requirement that a worker make a payment authorized by this chapter to the provider when the worker opts to use the services of a provider shall not be a violation of [Section 212 of the Labor Code](#) if, before making the payment to the provider, the worker is informed in writing of the right to receive the full amount of the worker's wages, without discount, if the worker waits until the regular payday.

22483.

A provider shall comply with all of the following requirements:

(a)

A provider shall permit a worker to cancel participation in a wage-based or work-based advance program at any time without incurring a charge for doing so.

(b)

Before entering into a contract to provide the worker with a wage-based or work-based advance, a provider shall provide the worker with a written or electronic document, and the worker shall acknowledge receipt of that document. That document shall meet all of the following requirements:

(1)

Inform the worker of the worker's rights under the program and include instructions for how to cancel participation in the program.

(2)

Include a statement at the top of the document that reads as follows:

"We cannot sue you, or report you to a credit reporting agency if we are unable to collect an amount due for an advance we provide. If you have questions about the services we perform, you may contact us at [telephone or email address at which the provider may be reached]. If you wish to report a complaint about [Name of provider], you may contact the California Department of Business Oversight at 866-275-2677, or file your complaint online at <https://dbo.ca.gov/file-a-complaint/>."

(3)

Be separate from any other agreement the worker is asked to sign.

(4)

Be written in a minimum 12-point font size, or, if provided electronically, be easily legible.

(5)

Be written in language intended to be understood by a layperson.

(6)

A worker shall be given the option of receiving a hard copy or an electronic copy of this document at a designated address when entering into an agreement to receive wage-based or work-based advances.

(7)

If a worker accesses wage-based or work-based advances via an electronic application, the document shall also be provided with an ***in-app*** link to this document, and the document shall remain accessible to the worker via the ***in-app*** link at all times the contract is in place.

(c)

A provider shall deliver funds to the worker via any means mutually agreeable to the worker and the provider.

- (d)
 - (1)

Except as provided in paragraph (2), a provider shall not require a worker to open an account at a particular depository institution as a condition of providing a wage-based or work-based advance.
 - (2)

A provider may require a worker to open an account at a particular depository institution if neither the worker nor an obligor is required to pay a fee or charge to open or maintain the account, and the account is fully insured for the worker's benefit by the Federal Deposit Insurance Corporation.
 - (3)

If a provider requires a worker to open an account at a particular depository institution, the provider shall ensure that a worker receives the worker's wages or compensation, net of any funds advanced by the provider in that pay period, in an account that allows the worker to initiate transactions, including writing checks or initiating debit card or automated clearinghouse transactions. The provider shall ensure that those funds are provided in the worker's account in a manner at least as timely as those wages or compensation would have been available to the worker if that worker had not entered into an agreement with the provider for wage-based or work-based advances.
- (e)
 - (1)

During an applicable time period, payments, whether required by the provider or at the worker's option, received by a provider from a worker for wage-based or work-based advances shall not exceed an average of fifteen dollars (\$15) per month or 7.5 percent of the aggregate amount advanced, whichever is less.
 - (2)

A provider shall not require payments totaling more than fifteen dollars (\$15) in any month.
 - (3)

The payments described in paragraph (1) include all payments received by the provider in connection with wage-based or work-based advances, including any fees for expedited delivery of funds permitted by paragraph (2) of subdivision (m) and any fees charged by the provider to make automatic wage-based or work-based advances to the worker.
 - (4)

For purposes of this subdivision and subdivision (j), "applicable time period" means either of the following:

 - (A)

The period of time beginning January 1 and ending June 30.
 - (B)

The period of time beginning July 1 and ending December 31.
 - (5)
 - (A)

Except as provided in subparagraph (B), a provider shall comply with the requirements of this subdivision by conducting a reconciliation of each worker's account at the end of the applicable time period and refunding any excess payment received during an applicable time period within 30 days of the end of the applicable time period.
 - (B)

If a worker terminates the worker's contract with a provider, the provider shall conduct the reconciliation required by this section within 30 days of termination.

(C)

This paragraph does not prohibit a provider from conducting reconciliations and issuing refunds more frequently or from instituting alternative processes to comply with this subdivision, provided that those processes result in full compliance with this subdivision within 30 days of the end of each applicable time period or within 30 days of the termination of a worker's contract.

(f)

The provider shall not receive an additional payment to defer collection of the amount advanced or defer an additional required payment beyond the worker's payday.

(g)

A provider shall not solicit a worker to accept a wage-based or work-based advance, or increase the amount of that advance, or delay the delivery of an advance, for the purpose of increasing the total charge the provider may collect under subdivision (e).

(h)

A provider shall not make more than three wage-based or work-based advances to a worker per week.

(i)

A contract between a provider and an obligor shall not contain a provision that limits the number of pay periods during which the worker may utilize wage-based or work-based advances.

(j)

(1)

Except as provided in paragraph (2), a wage-based or work-based advance shall not exceed 50 percent of the gross amount owed by an obligor to a worker as of the date and time of the worker's request.

(2)

A provider may advance an amount to a worker that is larger than the maximum allowed pursuant to paragraph (1) up to two separate times in an applicable time period, as defined in paragraph (3) of subdivision (e).

(k)

Wage-based advances and work-based advances shall be provided exclusively on a nonrecourse basis. For purposes of this division, nonrecourse basis means all of the following:

(1)

Except as provided in paragraph (2) of subdivision (a) of Section 22484, a provider shall not attempt to collect, either directly or through a third party, or sell or transfer to a third party the right to collect funds from a worker in connection with provision of wage-based or work-based advances. A provider is not in violation of this paragraph by using of a funds transfer system or vendor.

(2)

A provider shall not report a worker's repayment or failed repayment of a wage-based or work-based advance to any person other than the worker, including, but not limited to, the following:

(A)

A consumer credit reporting agency, as that term is defined in subdivision (d) of [Section 1785.3 of the Civil Code](#).

(B)

An investigating consumer reporting agency, as that term is defined in subdivision (d) of [Section 1786.2 of the Civil Code](#).

(C)

A consumer reporting agency, as that term is defined in subdivision (f) of [Section 1681a of Title 15 of the United States Code](#).

(3)

A worker shall not be held liable for a failed repayment of a wage-based or work-based advance if the obligor fails to meet its payroll obligation to the provider or to the worker.

(4)

A provider shall not initiate a legal proceeding against a worker under a cause of action that arises from, or is related to, a wage-based advance or work-based advance, including, but not limited to, an alleged breach of a contract between the worker and the provider.

(l)

(1)

If a provider requires a worker to make a payment in exchange for providing a wage-based or work-based advance, that payment shall not vary based on the delivery method that is used to provide a wage-based or work-based advance. For purposes of this paragraph, "delivery method" includes, but is not limited to, an automated clearinghouse or reloadable card.

(2)

A payment described in paragraph (1) may vary based on the speed with which the wage-based or work-based advance is provided. A payment required for an expedited transfer shall be reasonable and proportional to the costs directly associated with the expedited transfer. A provider may not delay the delivery of a wage-based or work-based advance except for a legitimate business purpose that shall not include encouraging a worker to pay an additional fee for an expedited transfer.

(3)

A payment may either be required by the provider as a condition for providing a wage-based or work-based advance or may be optional and in an amount determined by the worker.

(m)

(1)

Before making a wage-based or work-based advance, a provider shall make a reasonable determination of the wages or compensation that have been earned but have not been paid to a worker at the date and time that worker requests a wage-based or work-based advance.

(2)

For purposes of complying with paragraph (1), a provider shall not rely only on the amount of wages or compensation previously paid to the worker by an obligor, representations made by the worker, or a combination of these methods.

(n)

(1)

A provider may offer a worker additional services, which may either be bundled with wage-based or work-based advance services at no additional charge to a worker or may be offered to the worker separately from wage-based or work-based advance services. The following shall apply to any additional service offered at an additional charge by a provider to a worker who opts into receiving a wage-based or work-based advance:

(A)

The provider shall offer the additional service on an opt-in basis.

(B)

The provider shall clearly and prominently disclose that the worker is not required to **purchase** any additional service in order to receive wage-based or work-based advances.

(C)

The provider shall not market or sell the additional service as part of a package or bundle of services that includes wage-based or work-based advances.

(2)

The **restrictions** in subparagraphs (A) to (C), inclusive, of paragraph (1) shall not apply to offers of additional services that are bundled with wage-based or work-based advance services at no additional charge to a worker.

(o)

A provider shall not do any of the following:

(1)

Disclaim any warranties, express or implied, when entering into a contract with a worker for the provision of wage-based or work-based advances.

(2)

Change its contract with a worker for the provision of wage-based or work-based advances without summarizing the change in a plain-language disclosure to the worker and obtaining the worker's agreement to the change.

(3)

Include in its contract with a worker for the provision of wage-based or work-based advances an integration, merger, or other clause limiting the ability of the worker to introduce evidence outside the contract in a legal proceeding concerning the contract.

(4)

Include in its contract with a worker a hold harmless clause.

22484.

(a)

A provider may offer wage-based or work-based advances through any of the following:

(1)

A contractual arrangement with an obligor in which the funds advanced to the worker by the provider during a pay period are deducted from the worker's next paycheck. All of the following conditions shall apply to a contractual arrangement described in this paragraph.

(A)

The obligor shall not directly pass on to the worker the cost of offering the wage-based or work-based advance, but the obligor may offer to the worker an optional service package for which a fee is charged by the provider. The obligor shall not profit from the fees paid by workers for the optional service package.

(B)

The contract between a provider and obligor may allow the provider to offer services separate from wage-based or work-based advances and to charge workers separately for those services. The obligor shall not profit from the charges to workers for those services. A provider shall not condition the availability of a wage-based or work-based advance on a worker's willingness to **purchase** a separate service.

(C)

The contract shall prohibit the obligor from sharing payments with or receiving other compensation from the provider.

(2)

A contractual arrangement with a worker that permits the provider to be repaid directly by the worker via a means mutually acceptable to the worker and provider. All of the following conditions shall apply to a contractual arrangement described in this paragraph.

(A)

A provider shall notify a worker, at least two days before the date of the payment is due, of the total amount due and the date on which the provider will attempt to collect that amount from the worker. The provider shall make the notification by any means mutually acceptable to the worker and the provider. However, the provider shall not provide that notification solely via a provider's mobile application, if that application requires a worker to provide a password or similar credentials to access the notification.

(B)

A provider that seeks repayment from a worker through the worker's deposit account shall take best efforts to ensure that there are sufficient funds in the account before attempting to initiate a payment transfer from that account.

(C)

(i)

Except as provided in clause (ii), a provider that seeks repayment from a worker through the worker's deposit account shall not initiate a payment transfer from the worker's deposit account after the provider has attempted to initiate three consecutive failed payment transfers from that account. For purposes of this subparagraph, a payment transfer shall be deemed to have failed when it results in a return indicating that the worker's account lacks sufficient funds.

(ii)

A provider may initiate additional payment transfers from a consumer's account after a failed payment transfer if the worker authorizes the additional payment transfer.

(D)

A provider may contract with a worker to provide services that are separate from and unrelated to wage-based or work-based advances and may charge separately for those separate and unrelated services. However, a provider shall not condition the availability of a wage-based or work-based advance on a worker's willingness to **purchase** a separate or unrelated service.

(E)

A provider shall not charge a worker a fee for an unsuccessful payment transfer from that worker's deposit account.

(F)

The provisions of this paragraph shall apply to the collection of a required payment under subdivision (e) of Section 22483.

(b)

An obligor that is notified by a provider that it has entered into an arrangement described in subdivision (a) with a worker may, with the worker's consent, share information with the provider pertaining to the obligor's accrued and expected obligations to the worker.

(c)

Additional services provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a) and subparagraph (D) of paragraph (2) of subdivision (a) are subject to Section 22154.

22485.

(a)

A provider shall develop and implement policies and procedures to both respond to questions raised by workers and to address, in an expedient manner, complaints from workers.

(b)

(1)

Upon receipt of a complaint from a worker, a provider shall deliver the worker the following statement:

"If you have questions about the services we perform, you may contact us at [telephone or email address at which the provider may be reached]. If you wish to report a complaint about [Name of provider], you may contact the California Department of Business Oversight at 866-275-2677, or file your complaint online at <https://dbo.ca.gov/file-a-complaint/>."

(2)

The provider shall provide the statement described in paragraph (1) in no smaller than 12-point font size, or, if provided electronically, be easily legible.

(3)

For purposes of this subdivision, "receipt of a complaint from a worker" includes receiving a review from a worker that is linked to the provider's mobile application on a mobile application platform, including, but not limited to, a platform offered by an online or mobile device-accessible application store or comparable medium of which the provider should reasonably be aware.

22486.

A provider's annual report submitted to comply with Section 22159 shall include the following information related to wage-based or work-based advances provided to workers in the most recently completed calendar year:

(a)

Gross revenue received. For purposes of this subdivision, the provider shall distinguish between revenue received from workers and revenue received from obligors for providing services to their workers.

(b)

The total number of wage-based or work-based advances.

(c)

The total dollar amount of wage-based or work-based advances.

(d)

The total number of workers served.

(e)

The average and standard deviation of the number of wage-based or work-based advances per worker.

(f)

The number of workers who requested advances described in paragraph (2) of subdivision (i) of Section 60005.

(g)

The total number of failed payment transfers as described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 60006.

(h)

The total number of workers affected by at least one failed payment transfer as described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 60006.

(i)

For workers affected by at least one failed payment transfer as described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 60006, the average and standard deviation of number of failed payment transfers per worker.

(j)

The total dollar amount of payments received from workers.

(k)

The total number of wage-based and work-based advances wholly uncollected after the worker's payday, and the total dollar amount of those advances.

(l)

The total number of advances partially uncollected after the worker's payday, and the total dollar amounts uncollected for those advances.

(m)

The information required by subdivision (f) of Section 22112.5.

(n)

Any other information the commissioner may reasonably request in connection with the commissioner's responsibilities under this division.

22487.

(a)

A provider shall comply with all laws, rules, and orders regarding the duty to safeguard a consumer's personal information, including, but not limited to, Title 1.81 (commencing with [Section 1798.80](#)) of Part 4 of Division 3 of the Civil Code.

(b)

A provider shall comply with all requirements of the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with [Section 1798.100](#)) of Part 4 of Division 3 of the Civil Code).

(c)

A provider shall not sell, as defined in subdivision (t) of *Section 1798.140 of the Civil Code*, share, or otherwise disclose personal information, as defined by subdivision (o) of *Section 1798.140 of the Civil Code*, that is solicited or collected from a worker for the purpose of providing wage-based or work-based advances pursuant to this division, except to the extent that the sharing or disclosure is intended to, and is reasonably necessary to, effect the transaction requested by the worker.

(d)

A provider shall not utilize geolocation data, however derived, to either present information to a worker regarding the availability of a wage-based or work-based advance or to invite a worker to seek or obtain information regarding a wage-based or work-based advance.

(e)

(1)

Subject to paragraph (2), a provider shall not share payments or pay other compensation to an obligor.

(2)

Upon application to the commissioner by a provider, the commissioner may waive the prohibition of paragraph (1) on paying compensation to an obligor if the commissioner makes a determination that doing so will not result in limiting price competition among providers for wage-based and work-based advances or otherwise undermine the protections provided to workers under this chapter.

(f)

A provider may share with a worker's employer or other payment obligor aggregate information on wage-based or work-based advances provided by the provider to workers to whom the employer or obligor owes payments, but that information shall not be shared in any form that identifies an individual worker to the employer or obligor.

22488.

(a)

A person licensed under the California Deferred Deposit Transaction Law (commencing with Section 23000) shall not provide wage-based or work-based advances or be licensed as a provider under this chapter.

(b)

A provider shall not pay or receive compensation to or from a person licensed under the California Deferred Deposit Transaction Law (commencing with Section 23000).

22489.

(a)

The commissioner may, by rule, regulation, or order require a provider to provide disclosures to workers, including:

(1)

Comparisons between hypothetical transactions under a contract for wage-based or work-based advances and hypothetical transactions under other types of financing.

(2)

Retrospective cost and rate calculations.

(3)

Cost and rate calculations based upon an average transaction for each provider.

(4)

Any other cost and rate disclosures.

(5)

Information concerning the worker's rights under this chapter.

(b)

This section shall not be construed to limit the commissioner's authority under Section 22150 with respect to a provider.

22490.

This chapter shall become inoperative on January 1, 2023, and as of that date is repealed.

SEC. 29. SECTION 22700 OF THE FINANCIAL CODE IS AMENDED TO READ:

22700.

(a)

Finance lender, broker, ~~—and program administrator—~~ PROGRAM ADMINISTRATOR, AND PROVIDER licenses issued under this division shall remain in effect until they are surrendered, revoked, or suspended.

(b)

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

(c)

Surrender of a license becomes effective 30 days after receipt of an application to surrender the license or within a shorter period of time that the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the surrender is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, surrender of a license becomes effective at the time and upon the conditions that the commissioner determines.

~~-(d) This section shall become operative on January 1, 2019.~~

SEC. 30. SECTION 22701 OF THE FINANCIAL CODE IS AMENDED TO READ:

22701. (a)

For the purpose of discovering violations of this division or securing information required by ~~—him or her—~~ THE COMMISSIONER in the administration and enforcement of this division, the commissioner may at any time investigate the ~~—loans, assessment contracts, and business,—~~ ACTIVITIES AND BUSINESSES REGULATED UNDER THIS DIVISION and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a finance lender, broker, PROVIDER, or program administrator, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination, the commissioner and ~~his or her—~~ THE COMMISSIONER'S representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 31. SECTION 22706 OF THE FINANCIAL CODE IS AMENDED TO READ:

22706. (a)

The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony ~~—he or she—~~ THE COMMISSIONER requires relative ~~—to loans, assessment contracts, or business—~~ ACTIVITIES AND BUSINESSES regulated by this division or to the subject matter of any examination, investigation, or hearing.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 32. SECTION 22712 OF THE FINANCIAL CODE IS AMENDED TO READ:

22712.

(a)

Whenever, in the opinion of the commissioner, any person is engaged in business as a finance lender, broker, program administrator, PROVIDER, or a mortgage loan originator, as defined in this division, without a license from the commissioner, or ~~—any licensee—~~ violates any provision of this division, any provision of an order, or any regulation adopted pursuant to this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further continuing that violation. IN ADDITION, THE COMMISSIONER MAY INCLUDE A CLAIM FOR ANCILLARY RELIEF. THE ANCILLARY RELIEF MAY INCLUDE, BUT NOT BE LIMITED TO, REFUNDS, RESTITUTION, OR DISGORGEMENT OF DAMAGES ON BEHALF OF THE PERSONS INJURED BY THE ACT OR PRACTICE CONSTITUTING THE SUBJECT MATTER OF THE ACTION. If, within 30 days after the order is served, a written

request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded. For purposes of this section, "licensee" includes a mortgage loan originator.

(b)

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

~~(c) This section shall become operative on January 1, 2019.~~

SEC. 3

3.

SECTION 22714 OF THE FINANCIAL CODE IS AMENDED TO READ:

22714.

(a)

The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(1)

The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(2)

The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(3)

A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

(4)

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

(5)

There has been repeated failure by the program administrator, when administering assessment contracts, to take into consideration in determining the size and duration of the assessment contracts, the property owner's ability to meet the annual PACE obligations in the time and manner provided in the contract.

(6)

THE PROVIDER HAS REPEATEDLY FAILED, WHEN MAKING WAGE-BASED OR WORK-BASED ADVANCES, TO MAKE A REASONABLE DETERMINATION THAT WAGES HAVE BEEN EARNED BEFORE MAKING AN ADVANCE, OR, WHEN SEEKING REPAYMENT FROM A WORKER THROUGH THE WORKER'S DEPOSIT ACCOUNT, TO TAKE BEST EFFORTS TO ENSURE THAT THERE ARE SUFFICIENT FUNDS IN THE ACCOUNT BEFORE ATTEMPTING TO COLLECT FROM THAT ACCOUNT.

(b)

A master license shall not be suspended or revoked pursuant to this section as a result of any action or failure to act by a subsidiary licensee unless grounds exist for the suspension or revocation of the master license pursuant to this section. An order suspending or revoking a license or imposing sanctions against a licensee shall not affect other licensed locations unless expressly stated in the order.

~~-(c) This section shall become operative on January 1, 2019.~~

SEC. 3

4.

SECTION 22716 OF THE FINANCIAL CODE IS AMENDED TO READ:

22716. (a)

The revocation, suspension, expiration, or surrender of any license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any ~~borrower or property owner,~~ **BORROWER, PROPERTY OWNER, OR WORKER,** nor the validity and enforceability of any bonds issued and secured by those contracts. This division does not affect the validity and enforceability of any PACE assessment contracts entered into or bonds issued and secured by those contracts.

~~-(b) This section shall become operative on January 1, 2019.~~

SEC. 35. ARTICLE 4 (COMMENCING WITH SECTION 22790) IS ADDED TO CHAPTER 4 OF DIVISION 9 OF THE FINANCIAL CODE, TO READ:

Article 4.

Wage-Based and Work-Based Advance Penalties

22790.

(a)

If any amount other than, or in excess of, the payments permitted by Chapter 2.5 (commencing with Section _____) is willfully charged, contracted for, or received, the wage-based or work-based advance contract is void, and a person shall not have a right to collect or receive the amount advanced, a payment, charges, or recompense in connection with the transaction.

(b)

If a provision of Chapter 2.5 (commencing with Section _____) is willfully violated in the making or collection of a wage-based or work-based advance, the wage-based or work-based advance contract is void, and a person shall not have a right to collect or receive the amount advanced, a payment, charges, or recompense in connection with the transaction.

22791.

(a)

Except as provided in subdivision (b), if an amount other than, or in excess of, the payments permitted by Chapter 2.5 (commencing with Section _____) is charged or contracted for, or received, for any reason other than a willful act of the licensee, the licensee shall forfeit all payments on the wage-based or work-based advance and may collect or receive only the amount advanced to the worker.

(b)

A licensee is not in violation of subdivision (a) for an error in computation if both of the following apply:

(1)

The licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error despite the maintenance of procedures reasonably adapted to avoid the error.

(2)

Within 60 days of discovering the error, the licensee notifies the worker of the error and makes whatever adjustments in the account are necessary to correct the error.

22792.

(a)

Except as provided in subdivision (b), if a provision of Chapter 2.5 (commencing with Section ____) is violated in the making or collection of a wage-based or work-based advance, for any reason other than a willful act of the licensee, the licensee shall forfeit all payments on the wage-based or work-based advance and may collect or receive only the amount advanced to the worker.

(b)

A licensee is not in violation of subdivision (a) if both of the following apply with respect to that violation:

(1)

The licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error despite the maintenance of procedures reasonably adapted to avoid the error.

(2)

Within 30 days of discovering the error, the licensee notifies the worker of the error and rectifies the error by making the appropriate changes in the documents or account and by taking other action necessary to correct the error.

22793.

A person who willfully violates a provision of Chapter 2.5 (commencing with Section ____) or who willfully violates a rule or order, adopted pursuant to this division, which implements Chapter 2.5 (commencing with Section ____) shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000), by imprisonment in a county jail for not more than one year or pursuant to subdivision (h) of [Section 1170 of the Penal Code](#), or by both that fine and imprisonment. However, a person shall not be imprisoned for the violation of a rule or order unless that person had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority in Section 22713.

22794.

A provision imposing liability under this article shall not apply to an act done or omitted in good faith in conformity with a written general rule, regulation, or specific ruling of the commissioner.

22797.

This article shall become inoperative on January 1, 2023, and as of that date is repealed.

SEC. 36. NO REIMBURSEMENT IS REQUIRED BY THIS ACT PURSUANT TO SECTION 6 OF ARTICLE XIIIB OF THE CALIFORNIA CONSTITUTION BECAUSE THE ONLY COSTS THAT MAY BE INCURRED BY A LOCAL AGENCY OR SCHOOL DISTRICT WILL BE INCURRED BECAUSE THIS ACT CREATES A NEW CRIME OR INFRACTION, ELIMINATES A CRIME OR INFRACTION, OR CHANGES THE PENALTY FOR A CRIME OR INFRACTION, WITHIN THE MEANING OF SECTION 17556 OF THE GOVERNMENT CODE, OR CHANGES THE DEFINITION OF A CRIME WITHIN THE MEANING OF SECTION 6 OF ARTICLE XIIIB OF THE CALIFORNIA CONSTITUTION.

~~SEC. 2. Division 21 (commencing with Section 60000) is added to the Financial Code, to read:~~

~~21. Wage-based and Work-based Advances~~

~~60000. It is the intent of the Legislature that this act accomplish all of the following:~~

~~(a) Protect the interests of workers in this state who avail themselves of wage-based and work-based advances.~~

~~(b) Provide for the safe, efficient, and orderly conduct of the business of providing wage-based and work-based advances.~~

~~(c) Provide legal certainty to providers of wage-based and work-based advances by establishing a regulatory framework for their lawful conduct in this state.~~

~~(d) Maintain public confidence in providers of wage-based and work-based advances.~~

~~(e) Prohibit both employers and persons that retain independent contractors from directly profiting from workers' use of wage-based and work-based advances.~~

~~(f) Establish a registration and reporting system facilitated by the Commissioner of Business Oversight in order to provide the state with information about the number and size of businesses providing wage-based and work-based advances in California and about the evolving nature of their business models.~~

~~60001. For purposes of this division, the following definitions shall apply:~~

~~(a) "Delivery" means the delivery of funds to a worker by a provider.~~

~~(b) (1) "Obligor" means either of the following:~~

~~(A) An employer.~~

~~(B) A person, including an independent contractor, who is not an employer but who is contractually obligated to pay the worker a sum of money on an hourly, project-based, piecework, or other basis for labor or services provided by the worker to or on behalf of the other person.~~

~~(2) "Obligor" does not include a customer of an obligor or other third party whose obligation to make a payment to a worker is based solely on the worker's agency relationship with the obligor.~~

~~(c) "Payment" means money or other consideration paid by a worker to a provider that is directly related to the provision of wage-based or work-based advances, including, but not limited to, a payment for an expedited transfer.~~

~~(d) "Payroll services provider" means a person that assists a business in meeting its payroll administration obligations by collecting information on employees and independent contractors, hours worked, pay rates, deductions, and other payroll-related data from the business and uses that information to prepare paychecks, wage statements, and related reports for the employees employed by or the independent contractors retained by the business.~~

~~(e) "Provider" means a person that is engaged in the business of delivering wage-based or work-based advances. "Provider" does not include a payroll services provider, unless that payroll services provider is separately engaged in the business of delivering wage-based or work-based advances.~~

~~(f) "Providing wage-based or work-based advances" means the delivery to a worker of a wage-based advance or a work-based advance.~~

~~(g) "Wage-based advance" or "work-based advance" means funds advanced to a worker by a provider that are based on wages or compensation the worker has represented have been earned but have not, at the time of the advance, been paid to the worker for work performed for or on behalf of an obligor.~~

~~(h) "Worker" means a natural person who has earned wages or compensation in this state as an employee or an independent contractor.~~

~~60002. (a) Division 1.2 (commencing with Section 2000), Division 9 (commencing with Section 22000), and Division 10 (commencing with Section 23000) shall not apply to providing a wage-based advance or a work-based advance to a worker.~~

~~(b) The requirement that a worker who opts to use the services of a provider shall not be a violation of [Section 212 of the Labor Code](#) to the extent that the worker is informed in writing of the right to receive the full amount of the worker's wages, without discount, if the worker waits until the regular payday.~~

~~60003. (a) A person shall not engage in the business of providing wage-based or work-based advances without registering as a provider with the commissioner and paying all fees required by the commissioner.~~

~~(b) A person may apply to register as a provider under this division by submitting an application to the commissioner that shall be in the form prescribed by the commissioner and shall include all of the following information:~~

~~(1) The name, business address, and licensing details, if applicable, of the provider and all physical locations, internet website addresses, and mobile applications from which the provider will engage in activities subject to this division.~~

~~(2) The name and contact information for an employee of the provider who is knowledgeable about, and has the authority to execute, a contract governing a business relationship between the provider and any obligors.~~

~~(3) The name and contact information for an employee of the provider who has authority over the provider's policies and procedures for complying with this division.~~

~~(4) A description of the provider's business model used to provide wage-based or work-based advances.~~

~~(5) Other information the commissioner determines is necessary or convenient for the purposes of evaluating the ability of an applicant to provide wage-based and work-based advances or to implement this division.~~

~~(c) A registrant shall pay to the commissioner an assessment that is calculated based on the registrant's pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or reasonably anticipated in the administration of the program in the year in which the assessment is made with respect to costs attributable to the registrant. The commissioner shall calculate a registrant's pro rata share based on the revenue earned by the provider by providing wage-based and work-based advances in this state.~~

~~(d) The commissioner shall, by rule, establish the timelines and fees applicable to applicants for original provider registrations and annual renewals.~~

~~(e) (1) If a registered provider fails to pay a required fee or assessment by the due date specified by the commissioner, the commissioner may by order summarily suspend or revoke the provider's registration.~~

~~(2) If, after an order is made pursuant to paragraph (1), the person who was the subject of the order files a request for hearing in writing within 30 days with the commissioner, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of the effective date of the order.~~

~~(3) During a period when its registration is revoked or suspended pursuant to paragraph (1), a provider shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a registration shall not affect the powers of the commissioner as provided in this division.~~

~~60004. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny an application for a registration as a provider only for either of the following reasons:~~

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

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

~~(b) An application for registration as a provider shall be considered withdrawn if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.~~

~~(c) The commissioner shall, within 60 days after a registrant files a full and complete application for a registration and pays the required assessment, either issue a registration or file a statement of issues prepared in accordance with Chapter 5 (commencing with [Section 11500](#)) of Part 1 of Division 3 of Title 2 of the Government Code. If the commissioner fails to issue a registration or file a statement of issues within 60~~

days from the filing of a full and complete application for a registration with the required fees, the registrant may operate provisionally until the commissioner issues a registration or files a statement of issues.

~~60005. A provider shall comply with all of the following requirements:~~

~~(a) A provider shall permit a worker to cancel participation in a wage-based or work-based advance program at any time without incurring a charge for doing so.~~

~~(b) Before providing a wage-based or work-based advance, a provider shall provide the worker with a written or electronic document, and the worker shall acknowledge receipt of that document. That document shall meet all of the following requirements:~~

~~(1) Inform the worker of the worker's rights under the program and include instructions for how to cancel participation in the program.~~

~~(2) Include a statement that reads as follows:~~

~~"If you have questions about the services we perform, you may contact us at [telephone or email address at which the provider may be reached]. If you wish to report a complaint about [Name of provider], you may contact the California Department of Business Oversight at 866-275-2677, or file your complaint online at <https://dbo.ca.gov/file-a-complaint/>."~~

~~(3) Be separate from any other agreement the worker is asked to sign.~~

~~(4) Be written in a minimum 12-point font size, or, if provided electronically, be easily legible.~~

~~(5) Be written in language intended to be understood by a layperson.~~

~~(6) A worker shall be given the option of receiving a hard copy or an electronic copy of this document at a designated address when entering into an agreement to receive wage-based or work-based advances.~~

~~(7) If a worker accesses wage-based or work-based advances via an electronic application, the document shall also be provided with an in-app link to this document.~~

~~(c) A provider shall deliver funds to the worker via any means mutually agreeable to the worker and the provider.~~

~~(d) (1) Except as provided in paragraph (2), a provider shall not require a worker to open an account at a particular depository institution as a condition of providing a wage-based or work-based advance.~~

~~(2) A provider may require a worker to open an account at a particular depository institution if neither the worker nor an obligor is required to pay a fee or charge to open or maintain the account.~~

~~(e) (1) During an applicable time period, payments, whether required by the provider or at the worker's option, received by a provider from a worker for wage-based or work-based advances shall not exceed an average of fifteen dollars (\$15) per month.~~

~~(2) A provider shall not require payments totaling more than fifteen dollars (\$15) in any month.~~

~~(3) For purposes of paragraph (1), "applicable time period" means either of the following:~~

~~(A) The period of time beginning January 1 and ending June 30.~~

~~(B) The period of time beginning July 1 and ending December 31.~~

~~(f) A provider shall not make more than three wage-based or work-based advances to a worker per week.~~

~~(g) A contract between a provider and an obligor shall not contain a provision that limits the number of pay periods during which the worker may utilize wage-based or work-based advances.~~

~~(h) (1) Except as provided in paragraph (2), a wage-based or work-based advance shall not exceed 50 percent of the gross amount owed by an obligor to a worker as of the date and time of the worker's request.~~

~~(2) A provider may advance an amount to a worker that is larger than the maximum allowed pursuant to paragraph (1) up to two separate times in an applicable time period, as defined in paragraph (3) of subdivision (e).~~

~~(i) Wage-based advances and work-based advances shall be provided exclusively on a nonrecourse basis. For purposes of this division, nonrecourse basis means all of the following:~~

~~(1) Except as provided in paragraph (2) of subdivision (a) of Section 60006, a provider shall not attempt to collect, either directly or through a third party, or sell or transfer to a third party the right to collect funds from a worker in connection with provision of wage-based or work-based advances.~~

~~(2) A provider shall not report a worker's repayment or failed repayment of a wage-based or work-based advance to any person other than the worker, including, but not limited to, the following:~~

~~(A) A consumer credit reporting agency, as that term is defined in subdivision (d) of [Section 1785.3 of the Civil Code](#).~~

~~(B) An investigating consumer reporting agency, as that term is defined in subdivision (d) of [Section 1786.2 of the Civil Code](#).~~

~~(C) A consumer reporting agency, as that term is defined in subdivision (f) of [Section 1681a of Title 15 of the United States Code](#).~~

~~(3) A worker shall not be held liable for a failed repayment of a wage-based or work-based advance if the obligor fails to meet its payroll obligation to the provider or to the worker.~~

~~(j) (1) If a provider requires a worker to make a payment in exchange for providing a wage-based or work-based advance, that payment shall not vary based on the delivery method that is used to provide a wage-based or work-based advance. For purposes of this paragraph, "delivery method" includes, but is not limited to, an automated clearinghouse or reloadable card.~~

~~(2) A payment described in paragraph (1) may vary based on the speed with which the wage-based or work-based advance is provided. A payment required for an expedited transfer shall be reasonable and proportional to the costs directly associated with the expedited transfer.~~

~~(3) A payment may either be required by the provider as a condition for providing a wage-based or work-based advance or may be optional and in an amount determined by the worker.~~

~~(k) (1) Prior to making a wage-based or work-based advance, a provider shall make a reasonable determination of the wages or compensation that have been earned but have not been paid to a worker at the date and time that worker requests a wage-based or work-based advance.~~

~~(2) For purposes of complying with paragraph (1), a provider shall not rely only on the amount of wages or compensation previously paid to the worker by an obligor.~~

~~60006. (a) A provider may offer wage-based or work-based advances through any of the following:~~

~~(1) A contractual arrangement with an obligor in which the funds advanced to the worker by the provider during a pay period are deducted from the worker's next paycheck. All of the following conditions shall apply to a contractual arrangement described in this paragraph.~~

~~(A) The obligor shall not directly pass on to the worker the cost of offering the wage-based or work-based advance, but the obligor may offer to the worker an optional service package for which a fee is charged by the provider. The obligor shall not directly profit from the fees paid by workers for the optional service package.~~

~~(B) The contract between a provider and obligor may allow the provider to offer services separate from wage-based or work-based advances and to charge workers separately for those services. The obligor shall not directly profit from the charges to workers for those services. However, in no case may a provider condition the availability of a wage-based or work-based advance on a worker's willingness to **purchase** a separate service.~~

~~(C) The contract shall prohibit the obligor from sharing payments with or receiving other compensation from the provider that is related to a worker's use of wage-based or work-based advances from the provider.~~

~~(2) A contractual arrangement with a worker that permits the provider to be repaid directly by the worker via a means mutually acceptable to the worker and provider. All of the following conditions shall apply to a contractual arrangement described in this paragraph:~~

~~(A) A provider shall notify a worker, at least two days before the date of the payment is due, of the total amount due and the date on which the provider will attempt to collect that amount from the worker. The provider shall make the notification by any means mutually acceptable to the worker and the provider. However, the provider shall not provide that notification solely via a provider's mobile application, if that application requires a worker to provide a password or similar credentials to access the notification.~~

~~(B) A provider that seeks repayment from a worker through the worker's deposit account shall take best efforts to ensure that there are sufficient funds in the account before attempting to collect from that account.~~

~~(C) A provider that seeks repayment from a worker through the worker's deposit account shall not initiate a payment transfer from the worker's deposit account after the provider has attempted to initiate three consecutive failed payment transfers from that account. For purposes of this subparagraph, a payment transfer shall be deemed to have failed when it results in a return indicating that the worker's account lacks sufficient funds.~~

~~(D) A provider may contract with a worker to provide services that are separate from and unrelated to wage-based or work-based advances and may charge separately for those separate and unrelated services. However, a provider shall not condition the availability of a wage-based or work-based advance on a worker's willingness to purchase a separate or unrelated service.~~

~~(E) A provider shall not charge a worker a fee for an unsuccessful payment transfer from that worker's deposit account.~~

~~(b) An obligor that is notified by a provider that it has entered into an arrangement described in subdivision (a) with a worker may, with the worker's consent, share information with the provider pertaining to the obligor's accrued and expected obligations to the worker.~~

~~60007. A person who engages in business as a provider shall at all times comply with all of the following:~~

~~(a) Maintain a minimum net worth, excluding assets that exist to satisfy the requirements of subdivision (b) or (c), of at least two hundred fifty thousand dollars (\$250,000) as determined by generally accepted accounting standards.~~

~~(b) Maintain a fidelity bond or bonds in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, executed by an insurer authorized to do business in this state or an eligible surplus line insurer pursuant to [Section 1765.1 of the Insurance Code](#). In the alternative, a provider may deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, in an insured escrow account at a depository institution of the provider's choice. Interest on that amount shall accrue to the provider. Funds placed on deposit pursuant to this subdivision may be withdrawn pursuant only to a court order, an order of the commissioner, or as otherwise specified by the commissioner by rule.~~

~~(c) Maintain a policy of errors and omissions insurance in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, executed by an insurer authorized to do business in this state or an eligible surplus line insurer pursuant to [Section 1765.1 of the Insurance Code](#). In the alternative,~~

~~a provider may deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than one-sixth of the total wage-based and work-based advances that it made in the final six calendar months of the immediately preceding calendar year, rounded to the nearest ten thousand dollars (\$10,000), or two hundred fifty thousand dollars (\$250,000), whichever is greater, in an insured escrow account at a depository institution of the provider's choice. Interest on that amount shall accrue to the provider. Funds placed on deposit pursuant to this subdivision may be withdrawn pursuant only to a court order, an order of the commissioner, or as otherwise specified by the commissioner by rule.~~

~~-(d) The requirements of subdivisions (a), (b), and (c) are independent of one another, and an action taken to satisfy one of those subdivisions shall not be construed to satisfy the requirements of any other requirement of this section.~~

~~-(e) In any application for registration, and on or before the 15th day of March of each calendar year thereafter, a person who engages in business as a provider shall submit proof satisfactory to the commissioner that the person is satisfying the requirements of subdivisions (a), (b), and (c).~~

~~-(f) (1) Except as provided in paragraph (2), on an annual basis, a person who engages in business as a provider shall submit to the commissioner a report, certified by an independent public accountant, that contains audited financial statements covering the calendar year or, if the provider has an established fiscal year, then for that fiscal year, within 105 days after the close of the calendar or fiscal year, as applicable. The commissioner may, pursuant to paragraph (2) of subdivision (d) of [Section 6254 of the Government Code](#), choose not to disclose a record submitted pursuant to this section.~~

~~-(2) Notwithstanding paragraph (1), a person who engages in business as a provider and who has been incorporated for less than three years as of the date on which audited financial statements are required to be submitted pursuant to this section may submit financial statements reviewed by an independent public accountant in lieu of audited financial statements.~~

~~-(g) A person claiming to have sustained damage from a provider's violation of this division may file a claim on the bonds, deposits, or letters of credit described in this section to recover the damages subject to the terms and conditions of the bonds, deposits, or letters of credit.~~

~~-60008. (a) A provider shall develop and implement policies and procedures to both respond to questions raised by workers and to address, in an expedient manner, complaints from workers.~~

~~-(b) (1) Upon receipt of a complaint from a worker, a provider shall deliver the worker the following statement:~~

~~"If you have questions about the services we perform, you may contact us at [telephone or email address at which the provider may be reached]. If you wish to report a complaint about [Name of provider], you may contact the California Department of Business Oversight at 866-275-2677, or file your complaint online at <https://dbo.ca.gov/file-a-complaint/>."~~

~~-(2) The provider shall provide the statement described in paragraph (1) in no smaller than 12-point font size, or, if provided electronically, be easily legible.~~

~~-(3) For purposes of this subdivision, "receipt of a complaint from a worker" includes receiving a review from a worker that is linked to the provider's mobile application on a mobile application platform, including, but not limited to, a platform offered by an online or mobile device-accessible application store or comparable medium of which the provider should reasonably be aware.~~

~~-(c) The commissioner shall implement a system of tracking complaints submitted to the department pursuant to this division and shall make data related to those complaints available upon request.~~

~~-60009. A provider shall file an annual report with the commissioner, on or before the 15th day of March, giving the following information related to wage-based or work-based advances provided to workers in the most recently completed calendar year:~~

~~-(a) Gross revenue received. For purposes of this subdivision, the provider shall distinguish between revenue received from workers and revenue received from obligors for providing services to their workers.~~

- ~~(b) The total number of wage-based or work-based advances.~~
 - ~~(c) The total dollar amount of wage-based or work-based advances.~~
 - ~~(d) The total number of workers served.~~
 - ~~(e) The average and standard deviation of the number of wage-based or work-based advances per worker.~~
 - ~~(f) The number of workers who requested advances described in paragraph (2) of subdivision (i) of Section 60005.~~
 - ~~(g) The total number of failed payment transfers as described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 60006.~~
 - ~~(h) The total number of workers affected by at least one failed payment transfer as described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 60006.~~
 - ~~(i) For workers affected by at least one failed payment transfer as described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 60006, the average and standard deviation of number of failed payment transfers per worker.~~
 - ~~(j) Any other information the commissioner may reasonably request in connection with the commissioner's responsibilities under this division.~~
- ~~60010. (a) A provider shall comply with all laws, rules, and orders regarding the duty to safeguard a consumer's personal information, including, but not limited to, Title 1.81 (commencing with [Section 1798.80](#)) of Part 4 of Division 3 of the Civil Code.~~
- ~~(b) A provider shall comply with all requirements of the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with [Section 1798.100](#)) of Part 4 of Division 3 of the Civil Code).~~
- ~~(c) A provider shall not sell, as defined in subdivision (t) of Section 1798.140 of the Civil Code, share, or otherwise disclose personal information, as defined by subdivision (o) of Section 1798.140 of the Civil Code, that is solicited or collected from a worker for the purpose of providing wage-based or work-based advances pursuant to this division.~~
- ~~(d) A provider shall not utilize geolocation data, however derived, to either present information to a worker regarding the availability of a wage-based or work-based advance or to invite a worker to seek or obtain information regarding a wage-based or work-based advance.~~
- ~~60011. (a) The registration of a provider issued under this division shall remain in effect until it is surrendered, revoked, or suspended.~~
- ~~(b) For the purpose of securing information required by the commissioner in the administration and enforcement of this division, the commissioner may, at any time, investigate and examine the books, accounts, records, and files used in the business of a person providing wage-based or work-based advances, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination, the commissioner and the commissioner's representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons. The commissioner shall not be required to conduct routine examinations of a provider.~~
- ~~(c) The power of investigation and examination by the commissioner shall not be terminated by the surrender, suspension, or revocation of a registration issued by the commissioner pursuant to this division.~~
- ~~(d) (1) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a provider is violating a provision of this division or a rule or order thereunder, the commissioner or the commissioner's designee, may issue a citation to the provider in writing that describes with particularity the basis of the citation. A citation may contain an order to correct the violation or violations identified and provide a reasonable time period or periods by which the violation or violations shall be corrected. In addition, the commissioner may include a claim for ancillary relief. The ancillary relief may include, but not~~

~~be limited to, restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action.~~

~~(2) The commissioner may issue an order to desist and refrain from engaging in a specific business or activity or activities or may issue an order to suspend all business operations to a provider who is engaged in or who has engaged in continued or repeated violations of this division. The sanctions authorized under this section shall be cumulative to all other administrative, civil, or criminal remedies.~~

~~(3) If, within 30 days from the receipt of the citation, the provider cited fails to notify the department that the provider intends to request a hearing as described in paragraph (4), the citation shall be deemed final.~~

~~(4) A hearing under this section shall be conducted pursuant to Chapter 5 (commencing with [Section 11500](#)) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(5) After the exhaustion of the review procedures provided for in this section, the commissioner may apply to the appropriate superior court for an order compelling the cited person to comply with the order of the commissioner. The application, which shall include a certified copy of the final order of the commissioner, shall constitute a sufficient showing to warrant the issuance of the judgment and order.~~

~~(e) The commissioner shall suspend or revoke a registration upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:~~

~~(1) The provider has failed to comply with a demand, ruling, or requirement of the commissioner made pursuant to this division.~~

~~(2) The provider has violated a provision of this division or a rule or regulation made by the commissioner under and within the authority of this division.~~

~~(3) A fact or condition exists that, if it had existed at the time of the original application for registration, reasonably would have warranted the commissioner in refusing, pursuant to subdivision (a) of Section 60004, to issue the registration originally.~~

~~60012. (a) A person who violates this division is subject to civil suit in a court of competent jurisdiction.~~

~~(b) In addition to damages available in an action brought pursuant to subdivision (a), a person who violates this division shall be subject to a civil penalty of up to two thousand dollars (\$2,000) for each violation.~~

~~(c) In the case of an action to enforce a liability under this division, a prevailing plaintiff shall be entitled to its reasonable attorney's fees, costs, and expenses.~~

~~60013. This division shall become inoperative on January 1, 2023, and as of that date is repealed.~~

History

AMENDED IN SENATE MARCH 27, 2019

AMENDED IN SENATE APRIL 11, 2019

AMENDED IN SENATE MAY 07, 2019

AMENDED IN ASSEMBLY AUGUST 13, 2019

AMENDED IN ASSEMBLY AUGUST 15, 2019

CALIFORNIA LEGISLATURE--2019-2020 REGULAR SESSION

SENATE BILL

NO. 472

INTRODUCED BY SENATOR CABALLERO

FEBRUARY 21, 2019

Sponsor(s)

Caballero

Classification

Subject: CONSUMERS (59%)

Load-Date: August 16, 2019

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