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AB-1284 California Financing Law: Property Assessed Clean Energy program: program administrators.
(2017-2018)

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Assembly Bill No. 1284

CHAPTER 475

An act to amend, repeal, and add Section 10133.1 of the Business and Professions Code, and to amend Sections 22000, 22753, 22780 of, to amend the heading of Division 9 (commencing with Section 22000) of, to amend, repeal, and add Sections 22001, 22007, 22010, 22101, 22101.5, 22102, 22103, 22104, 22105, 22105.3, 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 22003.5, 22015, 22016, 22017, 22018, 22018.5, 22019, 22020, 22068, 22100.5, 22252, 22552, and 22758 to, and to add Chapter 3.5 (commencing with Section 22680) to Division 9 of, the Financial Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 04, 2017. Filed with Secretary of State October 04, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1284, Dababneh. California Financing Law: Property Assessed Clean Energy program: program administrators.

Existing law, the California Finance Lenders Law, generally provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight. Existing law requires a person seeking to become licensed as a finance lender or broker to submit an application to the commissioner, and to comply with specified licensure requirements such as paying a fee and an annual assessment to the commissioner. Existing law requires a finance lender or broker licensee to comply with requirements related to the conduct of his or her business. Existing law exempts specified types of entities or financial instruments from regulation under the California Finance Lenders Law. Existing law authorizes the commissioner to take specified disciplinary actions against a licensee, including ordering the licensee to cease specified activity or suspending or revoking the license of the licensee.

Existing law, known commonly as a Property Assessed Clean Energy (PACE program), authorizes a public agency, by making specified findings, to authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property. Existing law requires a public agency to comply with specified requirements before permitting a property owner to participate in any program established pursuant to those provisions, including that the property owner's participation would not result in the total amount of any annual property taxes and assessments exceeding 5% of the property's market value, and that the property owner is provided with specified financial documents and other forms. Existing law authorizes a private entity to administer a PACE program on behalf of, and with the written consent of, a public agency.

Existing state law, the California Financial Information Privacy Act, prohibits a financial institution from selling, sharing, transferring, or otherwise disclosing nonpublic personal information to, or with, nonaffiliated 3rd parties without the explicit prior

consent from the consumer to whom the information relates.

This bill would rename the “California Finance Lenders Law” the “California Financing Law,” and would require specified criteria related to the assessment contract to be satisfied before a program administrator approves an assessment contract for recordation by a public agency, including that all property taxes on the applicable property be current, the applicable property to not have specified debt recorded, that the property owner be current on specified debt and to have not been a party to a bankruptcy proceeding within a specified time, that the financing of the assessment, as well as the total value of all debt on the property, not exceed a specified amount, and that the terms of the assessment contract not exceed certain limitations.

This bill would, commencing on April 1, 2018, prohibit a program administrator from approving an assessment contract for funding and recording by a public agency unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the PACE assessments, subject to specified requirements and procedures. The bill would require a program administrator to comply with the requirements of the California Financial Information Privacy Act.

The bill would, commencing on January 1, 2019, require a program administrator that administers a PACE program on or behalf of a public agency to be licensed by the commissioner under the California Financing Law. The bill would require a program administrator to comply with licensure requirements that are similar to those of a finance lender or broker as described above. The bill would require a program administrator licensee to comply with similar requirements to those of finance lenders and brokers as to the conduct of his or her business, including display of his or her license, location of his or her business, maintenance and preservation of his or her records, reporting, including filing a specified annual report under oath, prohibiting making false or misleading statements, and advertising. By expanding the crime of perjury, this bill would impose state-mandated local program. The bill would provide that the exemptions described above do not apply to a program administrator.

The bill would require a program administrator to establish and maintain a process for the enrollment of a PACE solicitor and a PACE solicitor agent, including requiring a PACE solicitor or a PACE solicitor agent to meet specified minimum background checks, and would prohibit a program administrator from enrolling a PACE solicitor or a PACE solicitor agent if the program administrator makes specified findings. The bill would require a program administrator to establish and maintain a process to promote and evaluate the compliance of a PACE solicitor and a PACE solicitor agent with applicable law, and to establish and maintain a process to cancel the enrollment of a PACE solicitor or PACE solicitor agents who fail to meet minimum qualifications. The bill would require a program administrator to establish and maintain a training program for PACE solicitor agents, in accordance with certain requirements.

The bill would authorize the commissioner to take disciplinary actions against a program administrator that are similar to the disciplinary provisions described above for a finance lender or broker, including authorizing the commissioner to conduct an examination under oath, and would subject a program administrator to the enforcement authority of the commissioner for specified violations. The bill would authorize the commissioner, if during the course of an inspection, examination, or investigation of a program administrator the commissioner has cause to believe that the program administrator, PACE solicitor, or PACE solicitor agent may have committed a violation of the California Financing Law or that certain conditions are met, to take specified actions to investigate a PACE solicitor or a PACE solicitor agent, including authorizing the commissioner to conduct an examination under oath. The bill would authorize the commissioner to take disciplinary actions against a PACE solicitor or a PACE solicitor agent that violates any provision of the California Financing Law, subject to certain requirements and procedures. The bill would provide that if the person subject to an investigation under these provisions complies with the commissioner’s demands, or otherwise reaches a mutually agreeable resolution of any issues, then any examinations and correspondence related to that investigation is confidential.

This bill would require a program administrator to submit to the commissioner information beneficial to evaluating various aspects of the PACE program to be included in a specified annual report, as provided. The bill would authorize the commissioner, by rule, to require a program administrator to use a real-time registry or database system for tracking PACE assessments and the bill would require costs associated with the real-time registry or database system to be apportioned among licensed program administrators, as specified.

The bill would include findings that the changes proposed by this bill address a matter of statewide concern and is not a municipal affair, and shall therefore apply equally to all cities, including charter cities.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), and Article 7 (commencing with Section 10240) of this code and Section 1695.13 of the Civil Code do not apply to any of the following:

(1) Any person or employee thereof doing business under any law of this state, any other state, or the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(2) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(3) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any business of that type.

(4) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(5) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), and the fees and disbursements are not shared, directly or indirectly, with the person negotiating the loan or the lender.

(6) Any person licensed as a finance lender when acting under the authority of that license.

(7) Any cemetery authority as defined by Section 7018 of the Health and Safety Code, that is authorized to do business in this state or its authorized agent.

(8) Any person authorized in writing by a savings institution to act as an agent of that institution, as authorized by Section 6520 of the Financial Code or comparable authority of the Office of the Comptroller of the Currency of the United States Department of the Treasury by its regulations, when acting under the authority of that written authorization.

(9) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer, or agent of that person, if that person, employee, officer, or agent is acting within the scope of authority granted by that license in connection with a transaction involving the offer, sale, purchase, or exchange of a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, which transaction is subject to any law of this state or the United States regulating the offer or sale of securities.

(10) Any person licensed as a residential mortgage lender or servicer when acting under the authority of that license.

(11) Any organization that has been approved by the United States Department of Housing and Urban Development pursuant to Section 106(a)(1)(iii) of the federal Housing and Urban Development Act of 1968 (12 U.S.C. Sec. 1701x), to provide counseling services, or an employee of such an organization, when those services are provided at no cost to the borrower and are in connection with the modification of the terms of a loan secured directly or collaterally by a lien on residential real property containing four or fewer dwelling units.

(b) Persons described in paragraph (1), (2), or (3), as follows, are exempt from the provisions of subdivisions (d) and (e) of Section 10131 or Section 10131.1 with respect to the collection of payments or performance of services for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property:

(1) The person makes collections on 10 or less of those loans, or in amounts of forty thousand dollars (\$40,000) or less, in any calendar year.

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent's trust account.

(3) An employee of a real estate broker who is acting as the agent of a person described in paragraph (4) of subdivision (b) of Section 10232.4.

For purposes of this subdivision, performance of services does not include soliciting borrowers, lenders, or purchasers for, or negotiating, loans secured directly or collaterally by a lien on real property.

(c) (1) Subdivision (d) of Section 10131 does not apply to an employee of a real estate broker who, on behalf of the broker, assists the broker in meeting the broker's obligations to its customers in residential mortgage loan transactions, as defined in Section 50003 of the Financial Code, where the lender is an institutional lender, as defined in Section 50003 of the Financial Code, provided the employee does not participate in any negotiations occurring between the principals.

(2) A broker shall exercise reasonable supervision and control over the activities of nonlicensed employees acting under this subdivision, and shall comply with Section 10163 for each location where the nonlicensed persons are employed.

This section does not restrict the ability of the commissioner to discipline a broker or corporate broker licensee or its designated officer, or both the corporate broker licensee and its designated officer, for misconduct of a nonlicensed employee acting under this subdivision, or, pursuant to Section 10080, to adopt, amend, or repeal rules or regulations governing the employment or supervision of an employee who is a nonlicensed person as described in this subdivision.

This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 2. Section 10133.1 is added to the Business and Professions Code, to read:

10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), and Article 7 (commencing with Section 10240) of this code and Section 1695.13 of the Civil Code do not apply to any of the following:

(1) Any person or employee thereof doing business under any law of this state, any other state, or the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(2) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(3) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any business of that type.

(4) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(5) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), and the fees and disbursements are not shared, directly or indirectly, with the person negotiating the loan or the lender.

(6) Any person licensed as a finance lender when acting under the authority of that license.

(7) Any cemetery authority as defined by Section 7018 of the Health and Safety Code, that is authorized to do business in this state or its authorized agent.

(8) Any person authorized in writing by a savings institution to act as an agent of that institution, as authorized by Section 6520 of the Financial Code or comparable authority of the Office of the Comptroller of the Currency of the United States Department of the Treasury by its regulations, when acting under the authority of that written authorization.

(9) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer, or agent of that person, if that person, employee, officer, or agent is acting within the scope of authority granted by that license in connection with a transaction involving the offer, sale, purchase, or exchange of a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, which transaction is subject to any law of this state or the United States regulating the offer or sale of securities.

(10) Any person licensed as a residential mortgage lender or servicer when acting under the authority of that license.

(11) Any organization that has been approved by the United States Department of Housing and Urban Development pursuant to Section 106(a)(1)(iii) of the federal Housing and Urban Development Act of 1968 (12 U.S.C. Sec. 1701x), to provide counseling services, or an employee of such an organization, when those services are provided at no cost to the borrower and are in connection with the modification of the terms of a loan secured directly or collaterally by a lien on residential real property containing four or fewer dwelling units.

(12) Any person licensed as a PACE program administrator when acting under the authority of that license.

(13) A PACE solicitor, when enrolled by a person licensed as a program administrator and acting pursuant to an agreement with that program administrator licensee.

(14) A PACE solicitor agent, when enrolled by a person licensed as a program administrator and acting pursuant to an agreement between a PACE solicitor and that program administrator licensee.

(b) Persons described in paragraph (1), (2), or (3), as follows, are exempt from the provisions of subdivisions (d) and (e) of Section 10131 or Section 10131.1 with respect to the collection of payments or performance of services for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property:

(1) The person makes collections on 10 or less of those loans, or in amounts of forty thousand dollars (\$40,000) or less, in any calendar year.

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent's trust account.

(3) An employee of a real estate broker who is acting as the agent of a person described in paragraph (4) of subdivision (b) of Section 10232.4.

For purposes of this subdivision, performance of services does not include soliciting borrowers, lenders, or purchasers for, or negotiating, loans secured directly or collaterally by a lien on real property.

(c) (1) Subdivision (d) of Section 10131 does not apply to an employee of a real estate broker who, on behalf of the broker, assists the broker in meeting the broker's obligations to its customers in residential mortgage loan transactions, as defined in Section 50003 of the Financial Code, where the lender is an institutional lender, as defined in Section 50003 of the Financial Code, provided the employee does not participate in any negotiations occurring between the principals.

(2) A broker shall exercise reasonable supervision and control over the activities of nonlicensed employees acting under this subdivision, and shall comply with Section 10163 for each location where the nonlicensed persons are employed.

This section does not restrict the ability of the commissioner to discipline a broker or corporate broker licensee or its designated officer, or both the corporate broker licensee and its designated officer, for misconduct of a nonlicensed employee acting under this subdivision, or, pursuant to Section 10080, to adopt, amend, or repeal rules or regulations governing the employment or supervision of an employee who is a nonlicensed person as described in this subdivision.

This section shall become operative on January 1, 2019.

SEC. 3. The heading of Division 9 (commencing with Section 22000) of the Financial Code is amended to read:

DIVISION 9. CALIFORNIA FINANCING LAW

SEC. 4. Section 22000 of the Financial Code is amended to read:

22000. This division is known and may be cited as the "California Financing Law."

SEC. 5. 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 in this state.

(2) To simplify, clarify, and modernize the law governing loans made by finance lenders.

(3) To foster competition among finance lenders.

(4) To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders.

(5) To permit and encourage the development of fair and economically sound lending practices.

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

(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) 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) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 6. Section 22001 is added to the Financial Code, 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 in this state.

(2) To simplify, clarify, and modernize the law governing loans made by finance lenders.

(3) To foster competition among finance lenders.

(4) To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders.

(5) To permit and encourage the development of fair and economically sound lending practices.

(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) 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.

SEC. 7. Section 22003.5 is added to the Financial Code, to read:

22003.5. "Assessment contract" means an agreement entered into between all property owners of record on real property and a public agency in which, for voluntary contractual assessments imposed on the real property, the public agency provides a PACE assessment for the installation of one or more efficiency improvements on the real property in accordance with a PACE program, specified in paragraph (2) of subdivision (a) of Section 5898.20 of the Streets and Highways Code, or Section 5899 or 5899.3 of the Streets and Highways Code, or a special tax described in Section 53328.1 of the Government Code.

SEC. 8. Section 22007 of the Financial Code is amended to read:

22007. (a) "Licensee" means any finance lender or broker who receives a license in accordance with this division.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 9. Section 22007 is added to the Financial Code, to read:

22007. (a) "Licensee" means any finance lender, broker, or program administrator who receives a license in accordance with this division.

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

SEC. 10. Section 22010 of the Financial Code is amended to read:

22010. (a) "Finance lender" and "broker" do not include employees regularly employed at the location specified in the license of the finance lender or broker, except that an employee, when acting within the scope of his or her employment, shall be exempt from any other law from which his or her employer is exempt.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 11. Section 22010 is added to the Financial Code, to read:

22010. (a) "Finance lender," "broker," and "program administrator" do not include employees regularly employed at the location specified in the license of the finance lender, broker, or program administrator, except that an employee, when acting within the scope of his or her employment, shall be exempt from any other law from which his or her employer is exempt.

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

SEC. 12. Section 22015 is added to the Financial Code, to read:

22015. "PACE assessment" means a voluntary contractual assessment, voluntary special tax, or special tax, as described in subdivisions (a), (b), and (c) of Section 26054 of the Public Resources Code.

SEC. 13. Section 22016 is added to the Financial Code, to read:

22016. "PACE program" means a program in which financing is provided for the installation of efficiency improvements on real property and funded through the use of property assessments, as well as other program components defined in this section, established pursuant to any of the following:

(a) Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highways Code.

(b) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) A charter city's constitutional authority under Section 5 of Article XI of the California Constitution.

SEC. 14. Section 22017 is added to the Financial Code, to read:

22017. (a) "PACE solicitor" means a person authorized by a program administrator to solicit a property owner to enter into an assessment contract.

(b) "PACE solicitor agent" means an individual who is employed or retained by, and acts on behalf of, a PACE solicitor to solicit a property owner to enter into an assessment contract.

(c) "PACE solicitor" and "PACE solicitor agent" do not include any of the following:

(1) A person employed by a program administrator.

(2) A person, including a home improvement contractor or subcontractor, who does not solicit property owners to enter into assessment contracts.

(3) A person who performs purely administrative or clerical tasks.

(4) A person who advertises a PACE program, if the content of the advertising is created, prepared, or approved by a program administrator, and advertising is subject to, and in compliance with this division.

(5) A person who obtains information regarding prospective applicants for PACE financing, or who provides to a program administrator information regarding prospective applicants for PACE financing, if such information was not obtained in connection with advertising or soliciting a PACE program.

SEC. 15. Section 22018 is added to the Financial Code, to read:

22018. "Program administrator" means a person administering a PACE program on behalf of, and with the written consent of, a public agency. "Program administrator" does not include a public agency.

(a) For purposes of this division, "program administrator" does not include a person who meets both of the following conditions:

(1) The person does not administer a PACE program that provides financing for the installation of efficiency improvements on residential property with four or fewer units.

(2) The person does not administer a PACE program that provides financing for the installation of efficiency improvements on real property with a market value of less than one million dollars (\$1,000,000).

SEC. 16. Section 22018.5 is added to the Financial Code, to read:

22018.5. "Property owner" means all property owners of record on the property subject to the PACE assessment.

SEC. 17. Section 22019 is added to the Financial Code, to read:

22019. "Efficiency improvement" means one or more permanent improvements fixed to real property financed through a PACE assessment.

SEC. 18. Section 22020 is added to the Financial Code, to read:

22020. "Public agency" means a city, including a charter city, county, city and county, municipal utility district, community services district, community facilities district, joint powers authority, sanitary district, sanitation district, or water district, as defined in Section 20200 of the Water Code, that has established or participates in a PACE program, and utilizes a program administrator.

SEC. 19. Section 22068 is added to the Financial Code, to read:

22068. (a) The exemptions and exclusions in this article are not applicable to a person engaged in business as a program administrator or a PACE solicitor.

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

SEC. 20. Section 22100.5 is added to the Financial Code, to read:

22100.5. (a) A person shall not engage in the business of a program administrator without obtaining a license from the commissioner.

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

SEC. 21. Section 22101 of the Financial Code is amended to read:

22101. (a) An application for a license as a finance lender or broker 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 or broker under this division shall furnish, with his or her 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 shall not be construed to prevent a licensee from engaging in the business of a finance lender 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 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 22. Section 22101 is added to the Financial Code, to read:

22101. (a) An application for a license as a finance lender, broker, or program administrator 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 under this division shall furnish, with his or her 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 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 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. 23. 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 and broker 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 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 Licensing System and Registry in addition to the Department of Justice.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 24. Section 22101.5 is added to the Financial Code, 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 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 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 Licensing System and Registry in addition to the Department of Justice.

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

SEC. 25. Section 22102 of the Financial Code is amended to read:

22102. (a) A finance lender or broker 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 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 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 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 26. Section 22102 is added to the Financial Code, to read:

22102. (a) A finance lender, broker, or program administrator 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 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 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 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. 27. Section 22103 of the Financial Code is amended to read:

22103. (a) At the time of filing the application for a finance lender, broker, 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 28. Section 22103 is added to the Financial Code, to read:

22103. (a) At the time of filing the application for a finance lender, broker, program administrator, 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. 29. Section 22104 of the Financial Code is amended to read:

22104. (a) The applicant shall file with the application for a finance lender or broker license financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner that indicate a net worth of at least twenty-five thousand dollars (\$25,000). Except as provided in subdivisions (b) and (c), a licensee shall maintain a net worth of at least twenty-five thousand dollars (\$25,000) at all times.

(b) A licensed finance lender or broker, that employs one or more mortgage loan originators and that makes residential mortgage loans, shall continuously maintain a minimum net worth of at least two hundred fifty thousand dollars (\$250,000).

(c) A licensed finance broker, that employs one or more mortgage loan originators and that arranges, but does not make, residential mortgage loans, shall continuously maintain a minimum net worth of at least fifty thousand dollars (\$50,000).

(d) The commissioner may promulgate rules or regulations with respect to the requirements for minimum net worth, as are necessary to accomplish the purposes of this division and comply with the SAFE Act.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 30. Section 22104 is added to the Financial Code, to read:

22104. (a) The applicant shall file with the application for a finance lender, broker, or program administrator license financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner that indicate a net worth of at least twenty-five thousand dollars (\$25,000). Except as provided in subdivisions (b) and (c), a licensee shall maintain a net worth of at least twenty-five thousand dollars (\$25,000) at all times.

(b) A licensed finance lender or broker, that employs one or more mortgage loan originators and that makes residential mortgage loans, shall continuously maintain a minimum net worth of at least two hundred fifty thousand dollars (\$250,000).

(c) A licensed finance broker, that employs one or more mortgage loan originators and that arranges, but does not make, residential mortgage loans, shall continuously maintain a minimum net worth of at least fifty thousand dollars (\$50,000).

(d) The commissioner may promulgate rules or regulations with respect to the requirements for minimum net worth, as are necessary to accomplish the purposes of this division and comply with the SAFE Act.

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

SEC. 31. 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 activities in this state, 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 in this state. 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 of 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 within the state.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 32. Section 22105 is added to the Financial Code, 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 activities in this state, 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. 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 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.

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

SEC. 33. Section 22105.3 of the Financial Code is amended to read:

22105.3. (a) Except as otherwise provided in Section 1512 of the SAFE Act, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to that information or material, shall continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For these purposes, the commissioner is authorized to enter agreements or share arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule, regulation, or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subdivision (a) shall not be subject to the following:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the state.

(2) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(3) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 34. Section 22105.3 is added to the Financial Code, to read:

22105.3. (a) Except as otherwise provided in Section 1512 of the SAFE Act, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and

Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to that information or material, shall continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with applicable oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For these purposes, the commissioner is authorized to enter agreements or share arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule, regulation, or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subdivision (a) shall not be subject to the following:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the state.

(2) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(3) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

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

SEC. 35. Section 22106 of the Financial Code is amended to read:

22106. (a) The finance lender or broker 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 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 or a broker.

(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 separate from those for other loans if the licensed loans can be readily identified.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 36. Section 22106 is added to the Financial Code, to read:

22106. (a) The finance lender, broker, or program administrator 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 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.

(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 separate from those for other loans if the licensed loans can be readily identified.

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

SEC. 37. Section 22107 of the Financial Code is amended to read:

22107. (a) Each finance lender and broker 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 the 30th day of September 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 31st day of October, 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 or broker 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 Licensing System and Registry.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 38. Section 22107 is added to the Financial Code, to read:

22107. (a) Each finance lender, broker, or program administrator 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 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 Licensing System and Registry.

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

SEC. 39. 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 or broker 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 in this state, 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 in this state, 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 40. Section 22109 is added to the Financial Code, 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 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, 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, 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. 41. Section 22151 of the Financial Code is amended to read:

22151. (a) A finance lender license, broker 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.

(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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 42. Section 22151 is added to the Financial Code, to read:

22151. (a) A finance lender license, broker license, program administrator 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.

(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. 43. Section 22152 of the Financial Code is amended to read:

22152. (a) A finance lender or broker 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 44. Section 22152 is added to the Financial Code, to read:

22152. (a) A finance lender, broker, or program administrator 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. 45. Section 22153 of the Financial Code is amended to read:

22153. (a) If a finance lender or broker 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 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 prior to 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 46. Section 22153 is added to the Financial Code, to read:

22153. (a) If a finance lender, broker, or program administrator 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 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. 47. Section 22154 of the Financial Code is amended to read:

22154. (a) A licensee shall not conduct the business of making loans 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 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 48. Section 22154 is added to the Financial Code, to read:

22154. (a) A licensee shall not conduct the business of making loans or administering a PACE program 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 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. 49. Section 22155 of the Financial Code is amended to read:

22155. (a) A finance lender, broker, or mortgage loan originator licensee shall not transact the business licensed or make any loan provided for by 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 licensee may make any loan and engage in any other business provided for by 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 requests, either orally or in writing, that a loan 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 shall not constitute a request by the borrower that a loan 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 displayed on "home pages" or similar methods by the licensee on the Internet, the World Wide Web, or similar proprietary or common carrier electronic systems, and the prospective borrower may transmit information over these electronic systems to the licensee in connection with the licensee's offer to make a loan.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 50. Section 22155 is added to the Financial Code, to read:

22155. (a) A finance lender, broker, mortgage loan originator, or program administrator licensee shall not transact the business licensed or make any loan or administer any PACE program provided for by 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, or mortgage loan originator licensee may make any loan and engage in any other business provided for by 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 requests, either orally or in writing, that a loan 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 shall not constitute a request by the borrower that a loan 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 displayed on "home pages" or similar methods by the licensee on the Internet, the World Wide Web, or similar proprietary or common carrier electronic systems, and the prospective borrower 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.

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

SEC. 51. Section 22156 of the Financial Code is amended to read:

22156. (a) Finance lender, broker, 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 52. Section 22156 is added to the Financial Code, to read:

22156. (a) Finance lender, broker, program administrator, 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. 53. Section 22157 of the Financial Code is amended to read:

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

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 54. Section 22157 is added to the Financial Code, to read:

22157. (a) Finance lender, broker, 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 recorded therein.

(b) Except as otherwise specified by applicable law, 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. 55. Section 22159 of the Financial Code is amended to read:

22159. (a) Each finance lender and broker licensee shall file an annual report with the commissioner, on or before the 15th day of March, giving the relevant information that the commissioner reasonably requires concerning the business and operations conducted by the 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 Licensing System and Registry reports of condition, which shall be in the form and shall contain the information as the Nationwide Mortgage 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 Licensing System and Registry, in lieu of the reports of condition required of his or her employer pursuant to subdivision (c).

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 56. Section 22159 is added to the Financial Code, to read:

22159. (a) Each finance lender, broker, 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 Licensing System and Registry reports of condition, which shall be in the form and shall contain the information as the Nationwide Mortgage 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 Licensing System and Registry, in lieu of the reports of condition required of his or her employer pursuant to subdivision (c).

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

SEC. 57. 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) Make a materially false or misleading statement or representation to a borrower about the terms or conditions of that borrower's loan, when making or brokering the loan.

(2) 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, 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.

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

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

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

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

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 58. Section 22161 is added to the Financial Code, to read:

22161. (a) A person subject to this division shall not do any of the following:

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

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

(3) 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, 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) Commit an act in violation of Section 1695.13 of the Civil Code.

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

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

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

SEC. 59. Section 22162 of the Financial Code is amended to read:

22162. (a) A licensee shall not place an advertisement disseminated primarily in this state for a loan 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 would be made or arranged.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 60. Section 22162 is added to the Financial Code, 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 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 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.

SEC. 61. 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.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 62. Section 22163 is added to the Financial Code, 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 property owners.

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

SEC. 63. 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, the commissioner shall require that the rates, charges, or costs are stated fully and clearly in the manner that he or she deems necessary to give adequate information to prospective borrowers. If the rates or costs advertised do not apply to loans of all classes made or negotiated by the person, this fact shall be clearly indicated in the advertisement.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 64. Section 22164 is added to the Financial Code, 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 stated fully and clearly in the manner that he or she deems necessary to give adequate information to prospective borrowers or property owners. If the rates or costs advertised do not apply to loans or assessment contracts 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. 65. 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 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, or mortgage loan originator, and from engaging in any business activity on the premises where a licensed finance lender, broker, or mortgage loan originator is conducting its business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed finance lender, broker, or mortgage loan originator.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 66. Section 22168 is added to the Financial Code, 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 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, program administrator, or mortgage loan originator, and from engaging in any business activity on the premises where a licensed finance lender, broker, 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, mortgage loan originator, or program administrator.

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

SEC. 67. 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, 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, 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), 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, or mortgage loan originator, and from engaging in any business activity on the premises where a finance lender, broker, or mortgage loan originator is conducting business.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 68. Section 22169 is added to the Financial Code, 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, 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, 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, or mortgage loan originator, and from engaging in any business activity on the premises where a finance lender, broker, program administrator, or mortgage loan originator is conducting business.

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

SEC. 69. Section 22252 is added to the Financial Code, to read:

22252. This chapter does not apply to a program administrator or a PACE solicitor.

SEC. 70. Section 22552 is added to the Financial Code, to read:

22552. This chapter does not apply to a program administrator or a PACE solicitor.

SEC. 71. Chapter 3.5 (commencing with Section 22680) is added to Division 9 of the Financial Code, to read:

CHAPTER 3.5. Program Administrators

22680. (a) A program administrator shall establish and maintain a process for enrolling PACE solicitors, which shall include both of the following:

(1) A written agreement between the program administrator and the PACE solicitor, which shall set forth the obligations of the PACE solicitor and its PACE solicitor agents.

(2) A review of readily and publicly available information regarding each PACE solicitor.

(b) A program administrator shall establish and maintain a process for enrolling PACE solicitor agents, which shall include a background check of each PACE solicitor agent. A program administrator may rely on a background check conducted by the Contractors' State License Board to comply with this requirement.

(c) A program administrator shall not enroll a PACE solicitor or a PACE solicitor agent that does not satisfy at least one of the following criteria:

(1) Maintain in good standing a license from the Contractors' State License Board.

(2) Maintain a registration in good standing with the Contractors' State License Board as a home improvement salesperson.

(3) Be exempt from, or not subject to, licensure or registration under the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code).

(d) A program administrator shall not enroll a PACE solicitor if, as a result of the review conducted as part of the program administrator's enrollment process, the program administrator finds any of the following:

- (1) A clear pattern of consumer complaints about the PACE solicitor regarding dishonesty, misrepresentations, or omissions.
- (2) A high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law.
- (3) A clear pattern on the part of the PACE solicitor of failing to timely receive and respond to property owner complaints regarding the PACE solicitor.

(e) A program administrator shall establish and maintain a process to promote and evaluate the compliance of PACE solicitors and PACE solicitor agents with the requirements of applicable law, which shall include all of the following, at a minimum:

- (1) A risk-based, commercially reasonable procedure to monitor and test the compliance of PACE solicitors and PACE solicitor agents with the requirements of subdivision (a) of Section 22689.
- (2) A procedure to regularly monitor the license or registration status of PACE solicitors and PACE solicitor agents.
- (3) A periodic review of the solicitation activities of PACE solicitors enrolled with the program administrator, to be conducted at least once every two years.

(f) A program administrator shall establish and implement a process for canceling the enrollment of PACE solicitors and PACE solicitor agents who fail to maintain the minimum qualifications required by this section, or who violate any provision of this division.

22681. A program administrator shall establish and maintain a training program for PACE solicitor agents, which is acceptable to the commissioner.

(a) A program administrator shall require each PACE solicitor agent to complete an introductory training that addresses the topics listed in subsection (b) as part of the program administrator's enrollment process for PACE solicitor agents. The introductory training shall require that the PACE solicitor agent pass a test that measures the PACE solicitor agent's knowledge and comprehension of the training material. The introductory training shall not be subject to any minimum duration requirements.

(b) In addition to the introductory training, a program administrator shall require that each PACE solicitor agent complete six hours of education provided by the program administrator within three months of completing the program administrator's enrollment process. The training shall include the following topics:

- (1) PACE programs and assessment contracts.
- (2) PACE disclosures.
- (3) Ethics.
- (4) Fraud prevention.
- (5) Consumer protection.
- (6) Nondiscrimination.
- (7) Senior financial abuse.

22682. (a) A program administrator shall, in the manner prescribed by the commissioner, notify the commissioner of each PACE solicitor and PACE solicitor agent enrolled by the program administrator.

(b) A program administrator shall, in the manner prescribed by the commissioner, timely notify the commissioner of each enrollment cancellation and withdrawal of a PACE solicitor or a PACE solicitor agent pursuant to subdivision (f) of Section 22680.

22683. A program administrator shall develop and implement policies and procedures for responding to questions and addressing complaints as soon as reasonably practicable.

22684. A program administrator shall not submit, present, or otherwise approve for recordation by a public agency an assessment contract unless the following criteria are satisfied:

(a) All property taxes for the property that will be subject to the assessment contract are current. The program administrator shall ask a property owner whether there has been no more than one late payment of property taxes on the property for the previous three years or since the current owner acquired the property, whichever period is shorter.

(b) The property that will be subject to the assessment contract has no recorded and outstanding involuntary liens in excess of one thousand dollars (\$1,000).

(c) The property that will be subject to the assessment contract has no notices of default currently recorded which have not been rescinded.

(d) The property owner has not been a party to any bankruptcy proceedings within the last seven years, except that the property owner may have been party to a bankruptcy proceeding that was discharged or dismissed between two and seven years before the application date and the property owner has had no payments more than 30 days past due on any mortgage debt or nonmortgage debt, excluding medical debt, during the 12 months immediately preceding the application date.

(e) The property owner is current on all mortgage debt on the subject property and has no more than one late payment during the 12 months immediately preceding the application date and if the late payment did not exceed 30 days past due.

(f) The property that will be subject to the assessment contract is within the geographical boundaries of the applicable PACE program.

(g) The measures to be installed pursuant to the assessment contract are eligible under the terms of the applicable PACE program.

(h) The financing is for less than 15 percent of the value of the property, up to the first seven hundred thousand dollars (\$700,000) inclusive of the existing assessments, and is for less than 10 percent of the remaining value of the property above seven hundred thousand dollars (\$700,000).

(i) The total PACE assessments and the mortgage-related debt on the property subject to the PACE assessment will not exceed 97 percent of the market value of the property as established by the valuation required by Section 22685.

(j) The term of the assessment contract shall not exceed the estimated useful life of the measure to which the greatest portion of funds disbursed under the assessment contract is attributable. The program administrator shall determine useful life for purposes of this subdivision based upon credible third-party standards or certification criteria that have been established by appropriate government agencies or nationally recognized standards and testing organizations.

(k) The program administrator shall verify the existence of recorded PACE assessments and shall ask if the property owner has authorized additional PACE assessments on the same subject property that have not yet been recorded. The failure of a property owner to comply with this subdivision shall not invalidate an assessment contract or any obligations thereunder, notwithstanding where the combined amount of the PACE assessments exceed the criteria set forth in subdivision (h) or (i). The existence of a prior PACE assessment or a prior assessment contract shall not constitute evidence that the assessment contract under consideration is affordable or meets any other program requirements.

(l) The program administrator shall use commercially reasonable and available methods to verify the above.

(m) Notwithstanding Section 22696, this section shall become operative on January 1, 2018.

22685. (a) A program administrator shall derive market value using one of the following:

(1) An automated valuation model, using the following criteria:

(A) The automated valuation model must be provided by a third-party vendor.

(B) The automated valuation model must have estimation models with confidence scores and regular statistical calibration by the third-party vendor.

(C) The PACE program must utilize at least three automated valuation models for each property. The estimated value for each model shall be the average between the high and low values, if a range is provided.

(D) The PACE program shall utilize the estimated value with the highest confidence score for a property. If an automated valuation model meeting the criteria of subparagraphs (A), (B), and (C) does not obtain a confidence score for a subject property, the PACE Program shall utilize the average of all estimated values.

(2) An appraisal conducted within six months of the application date by a state-licensed real estate appraiser licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(3) For paragraph (2), program administrators shall conform to the requirements of California Code of Regulations, Title 10, Chapter 6.5 (commencing with Section 3500), including but not limited to, Section 3577 governing Minimum Standards of Practice, or with the Appraiser Independence Requirements that were developed by the Federal Housing Finance Agency.

(b) The market value determination by the program administrator shall be disclosed to the property owner prior to signing the assessment contract.

(c) Notwithstanding Section 22696, this section shall become operative on January 1, 2018.

22686. A program administrator shall not approve for funding, and recordation by a public agency, an assessment contract unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment.

Notwithstanding Section 22696, this section shall become operative on April 1, 2018.

22687. (a) A program administrator shall determine, prior to funding, and recordation by a public agency of the assessment contract that the property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment based on the property owner income, assets, and current debt obligations. The determination process shall be based on the following factors:

(1) The property owner shall submit on their application their monthly income and their monthly housing expenses.

(2) Housing expenses shall include all mortgage principal and interest payments, insurance, property taxes, mortgage guaranty insurance, and other preexisting fees and assessments on the property. Household income shall include the income of the mortgagor on the subject property and may include the income of any persons age 18 or older who are on title to the property. For any person whose income is considered, their debt obligations must also be considered pursuant to the provisions of this section. There is no requirement to consider more income than is necessary, nor to verify assets if verified income is sufficient to determine the ability to pay the annual payment obligations.

(3) Debt obligations in accordance with subdivision (c).

(4) In evaluating the income, assets and current debt obligations of the property owner, the equity of the property that will secure the assessment shall not be considered.

(5) Pursuant to Section 5913 of the Streets and Highways Code, the program administrator shall ask the homeowner open-ended questions during the confirm terms call, to confirm the income provided on the application and to identify the sources of their income.

(b) (1) The program administrator shall determine and consider the current or reasonably expected income or assets of the property owner that the program administrator relies on in order to determine a property owner's ability to pay the PACE assessment annual payment obligations using reasonably reliable third-party records of the property owner's income or assets. The program administrator may use automated verification provided the source of that verification is specific to the income of the property owner and not based on predictive or estimation methodologies, and has been determined sufficient for such verification purposes by a federal mortgage lending authority or regulator. Examples of records the program administrator may use to verify the property owner's income or assets include:

(A) A Pay stub showing the most recent 30-day pay period or financial institution records showing regular deposits consistent with reported income for the most recent 60 days.

(B) Copies of most recent tax returns the property owner filed with the Internal Revenue Service or the Franchise Tax Board.

(C) Copies of the most recent Internal Revenue Service Form W-2 (Wage and Tax Statement), or other similar Internal Revenue Service forms that are used for reporting wages or tax withholding.

(D) Payroll statements, including the Department of Defense Leave and Earnings Statement (LES).

(E) Financial institution records, such as bank statements or investment account statements reflecting the value of particular assets.

(F) Records from the property owner's employer or a third party that obtained income information from the employer.

(G) Records from a federal, state, or local government agency stating the property owner's income from benefits or entitlements. Income from benefits paid by a government entity shall not include any benefits for which the recipient must satisfy a means test or any cash equivalent non-monetary benefits, such as food stamps.

(2) Income may not be derived from temporary sources of income, illiquid assets, or proceeds derived from the equity from the subject property.

(c) A program administrator shall consider the monthly debt obligations of the property owner to determine a property owner's ability to pay the annual payment PACE assessment obligations using reasonably reliable third-party records, including one or more consumer credit reports from agencies that meet the requirements of Section 1681a(p) of Title 15 of the United States Code. Program administrators shall use at least a two-file Merged Credit Report (MCR) or a Residential Mortgage Credit Report (RMCR). For purposes of this subdivision, monthly debt obligations include, but are not limited to, the following:

(1) All secured and unsecured debt.

(2) Alimony.

(3) Child support.

(4) Monthly housing expenses. If property tax and insurance obligations are not included in a property owner's escrow, a program administrator shall use reasonably reliable methods to determine these obligations.

(d) In calculating the ability of the property owner to pay the annual payment obligations, the program administrator shall determine that the property owner's income is sufficient to meet:

(1) The PACE payment, including all interest and fees.

(2) Any mortgage payments, as defined by the higher of the borrowers self-reported housing payment or housing expenses determined in accordance with paragraph (1) and (2) of subdivision (a).

(3) All existing debts and obligations as identified in subdivision (c).

(4) Sufficient residual income to meet basic household living expenses, defined as expected expenses which may be variable based on circumstances and consumption patterns of the household. A program administrator may make reasonable estimation of basic living expenses based on the number of persons in the household. Examples of basic living expenses include, but are not limited to, categories such as food and other necessary household consumables; transportation costs to work or school (fuel, auto insurance and maintenance, public transit, etc.); and utilities expenses for telecommunication, water, sewage, electricity, and gas.

(e) In the case of emergency or immediate necessity, the requirements of paragraph (1) of subdivision (b) may be waived, in accordance with the requirements of Section 5940 of the Streets and Highway Code, for the funding and recordation of a PACE assessment to finance a heating, ventilation, and air conditioning (HVAC) system, boiler, or other system whose primary function is temperature regulation in a home if all the following are met:

(1) The program administrator first attempted to use an automated means of verification as described in paragraph (1) of subdivision (b).

(2) If the program administrator was unable to verify the property owner's income pursuant to paragraph (1) of subdivision (b), pursuant to Section 5913 of the Streets and Highways Code, the program administrator shall ask the property owner open-ended questions during the oral confirmation to identify their income and the sources of their income. The program administrator shall comply with the requirements of subdivision (a), paragraph (2) of subdivision (b), and subdivisions (c) and (d).

(3) The funding is limited to the emergency or immediate necessity improvement and any required improvements directly necessary to the installation and safe operation of the improvement.

(4) Any efficiency improvement funded is eligible for PACE financing.

(5) The property owner executes a waiver of their right to cancel pursuant to subdivision (d) of Section 5940 of the Streets and Highways Code, and confirms, pursuant to Section 5913 of the Streets and Highways Code, the emergency or immediate necessity of the improvement.

(6) The amount of the assessment contract does not exceed fifteen thousand dollars (\$15,000) or a monthly equivalent payment on the PACE assessment of one hundred twenty-five dollars (\$125), as adjusted by any annual increase in the

California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code, whichever is greater.

(f) The program administrator shall report annually all PACE assessments that were funded and recorded pursuant to subdivision (e) in a form acceptable to the commissioner.

(g) If there is a difference between the determination of the property owner's ability to pay the annual PACE obligations and the actual amount financed for the property owner, and the property owner is obligated on the underlying home improvement contract, the program administrator shall be responsible for that difference. This subdivision does not apply in a case of intentional misrepresentation by the property owner.

(h) Notwithstanding Section 22696, this section shall become operative on April 1, 2018.

22688. (a) A program administrator shall comply with requirements regarding the duty to safeguard nonpublic personal information imposed by the California Financial Information Privacy Act (Division 1.4 (commencing with Section 4050)).

(b) Notwithstanding Section 22696, this section shall become operative on April 1, 2018.

22689. (a) A program administrator shall not permit a PACE solicitor to do any of the following:

(1) Solicit a property owner to enter into an assessment contract with a program administrator, unless the PACE solicitor and the program administrator comply with the requirements of this chapter and any rules adopted by the commissioner.

(2) Engage in any act in violation of Section 5898.16 or 5898.17 of the Streets and Highways Code or Chapter 29.1 (commencing with Section 5900) of Part 3 of Division 7 of the Streets and Highways Code, including offering an assessment contract with terms, conditions, or disclosures that are not in compliance with applicable laws or that omits terms, conditions, or disclosures required by applicable law, excepting the reporting requirements of Section 5954 of the Streets and Highways Code.

(b) A program administrator shall be subject to the enforcement authority of the commissioner for any violations of this division, to the extent such violations have been committed by the program administrator or by a PACE solicitor authorized by that program administrator, in connection with activity related to that program administrator.

(c) A violation of any provision of Section 5898.16 or 5898.17 of the Streets and Highways Code or of any provision of Chapter 29.1 (commencing with Section 5900) of Part 3 of Division 7 of the Streets and Highways Code by a program administrator, excepting the reporting requirements of Section 5954, or by a PACE solicitor authorized by that program administrator in connection with activity related to that program administrator, shall represent a violation of this division.

22690. (a) A program administrator is subject to an inspection, examination, or investigation in accordance with Section 22701.

(b) If, in the course of an inspection, examination, or investigation of a program administrator, the commissioner has cause to believe that the program administrator, the PACE solicitor, or the PACE solicitor agent may have committed a violation of this division or any rule or order thereunder, or the commissioner seeks to obtain or provide information necessary to the commissioner in the administration of the division, with respect to a matter related to a PACE solicitor or PACE solicitor agent, and either this information is not available directly from the program administrator or the commissioner seeks to validate the information obtained from the program administrator, the commissioner may do the following:

(1) Inspect, examine, or investigate any and all documents, records, files, and communications of the PACE solicitor or PACE solicitor agent that are relevant to the violation or the matter. For purposes of the inspection, examination, or investigation, the commissioner and his or her representatives shall have access to the records of the PACE solicitor or PACE solicitor agent related to assessment contracts associated with the violation or matter.

(2) Require the attendance of witnesses and examine under oath all persons whose testimony he or she requires relative to the violation or matter.

(c) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a PACE solicitor or PACE solicitor agent is violating any provision of this division or any rule or order thereunder, the commissioner or his or her designee shall exhaust the procedure set forth in paragraph (1) before bringing any action authorized under paragraph (2).

(1) (A) The commissioner shall issue a report to the program administrator, the PACE solicitor, and, if applicable, the PACE solicitor agent, identifying each violation of this division or any rule or order thereunder.

(B) The program administrator, PACE solicitor, and, if applicable, PACE solicitor, PACE solicitor agent, or any combination thereof, shall have the opportunity to provide a written answer to the report submitted pursuant to subparagraph (A) within a

reasonable period.

(C) If upon expiration of that period, the commissioner believes further action is necessary or appropriate, the commissioner may do any of the following, in any combination:

(i) Demand a corrective action by the program administrator, PACE solicitor, PACE solicitor agent, or any combination thereof.

(ii) Demand the program administrator, PACE solicitor, PACE solicitor agent, or any combination thereof, stop violating the division, rule, or order.

(iii) Demand the PACE solicitor or PACE solicitor agent, or both, discontinue engaging in the business of soliciting property owners to enter into assessment contracts related to any or all program administrators, or demand the program administrator deauthorize the PACE solicitor or PACE solicitor agent, or both, for a defined period not exceeding 12 months, or indefinitely.

(D) If the program administrator, PACE solicitor, and PACE solicitor agent, as applicable, agree to the commissioner's demand issued under subparagraph (C), or otherwise reach a mutually agreeable resolution with the commissioner, the examination and correspondence related thereto shall remain confidential under paragraph (2) of subdivision (d) of Section 6254 of the Government Code. The commissioner may make publicly available the identity of any PACE solicitor or PACE solicitor agent, or both, who has agreed to discontinue engaging in the business of soliciting property owners to enter into assessment contracts.

(E) If the program administrator, PACE solicitor, or PACE solicitor agent, or any combination thereof, do not agree to the commissioner's demand issued under subparagraph (C), or otherwise reach a mutually agreeable resolution with the commissioner within a reasonable period, the commissioner may proceed under paragraph (2) or subdivision (d).

(2) Upon exhaustion of the procedure in paragraph (1), the commissioner may bring an order against a PACE solicitor, PACE solicitor agent, or both, as provided in this paragraph.

(A) The commissioner may order a PACE solicitor or PACE solicitor agent, or both, to desist and refrain from engaging in business as a PACE solicitor or PACE solicitor agent, or further violating this division, or the rules thereunder, in accordance with clause (i) and (ii) of this subparagraph. This paragraph does not authorize the commissioner to restrict the ability of a PACE solicitor or PACE solicitor agent to engage in any business that does not involve soliciting a property owner to enter into an assessment contract.

(i) If, within 30 days of the receipt of the order, the PACE solicitor or PACE solicitor agent, or both, fails to request a hearing, the order shall become final.

(ii) If, within 30 days of the receipt of the order, the PACE solicitor or PACE solicitor agent, or both, requests a hearing, the hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) The commissioner may, after appropriate notice and opportunity for a hearing, by order, censure or suspend for a period not exceeding 12 months, or bar any natural person from directly or indirectly soliciting a property owner to enter into an assessment contract, in accordance with clause (i) to (iv), inclusive, of this subparagraph. This paragraph does not authorize the commissioner to restrict the ability of a natural person to engage in any business that does not involve soliciting a property owner to enter into an assessment contract, or being employed by a PACE solicitor in a capacity that does not involve soliciting a property owner to enter into an assessment contract.

(i) Within 15 days from the date of a notice of intention to issue an order pursuant to this subparagraph, the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code).

(ii) Upon receipt of a request submitted pursuant to clause (i), the matter shall be set for hearing to commence within 30 days after the commissioner receives the request pursuant to clause (i), unless the person subject to the notice consents to a later date.

(iii) If no hearing is requested within 15 days after the mailing or service of the notice of intention as described in clause (i), and the commissioner does not order a hearing, the right to a hearing shall be deemed to be waived.

(iv) Upon receipt of a notice of intention to issue an order pursuant to this subparagraph, the person who is the subject of the proposed order is immediately prohibited from directly or indirectly soliciting a property owner to enter into an assessment contract.

(d) Upon exhaustion of the procedure in paragraph (1) of subdivision (c), if after investigation, the commissioner has reasonable grounds to believe that a person is conducting business as a PACE solicitor or PACE solicitor agent, or both, in an unsafe or injurious manner that will result in irreparable harm, the commissioner shall, by order, direct the person to discontinue the unsafe or injurious practice, in accordance with the following:

(1) The order shall be effective immediately.

(2) If, within 30 days of the receipt of the order, the PACE solicitor fails to request a hearing, the order shall become final.

(3) If, within 30 days of the receipt of the order, the PACE solicitor requests a hearing, the hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) An order brought under paragraph (2) of subdivision (c) or subdivision (d) shall be public.

(f) A PACE solicitor or PACE solicitor agent subject to this section shall not be subject to Chapter 4 (commencing with Section 22700).

(g) The commissioner shall not be bound to the provisions of this section in connection with his or her enforcement of this division with respect to a program administrator.

22691. The commissioner may by such rules as he or she deems necessary or appropriate in the public interest or for the protection of property owners, either unconditionally or upon specified terms and conditions or for specified periods, exempt any class of persons specified in such rules from the provisions of Section 22680, Section 22681, and Section 22682.

22692. (a) The commissioner shall require a program administrator to submit the following information in the annual report filed under Section 22159:

(1) Information beneficial to an evaluation of the overall impact on property owners caused by the 97 percent cap on total PACE and mortgage-related debt.

(2) Information beneficial to an evaluation of the overall impact on property owners caused by the use of an automated valuation model in determining the market value of property subject to a PACE assessment.

(3) Information beneficial to an evaluation of the overall impact on property owners caused by the emergency HVAC provisions.

(4) Information relevant to determining the overall impact on property owners of the absence of a minimum residual income threshold.

(b) The information received under this section shall appear in a separate section within the composite of the annual reports required to be prepared by the commissioner pursuant to Section 22160.

(c) This section does not limit the authority of the commissioner to require additional information from a program administrator under Section 22159.

22693. (a) The commissioner may, by rule, require a program administrator to use a real-time registry or database system for tracking PACE assessments in order to carry out his or her regulatory duties and to support enforcement. That registry or database system shall enable the program administrator to trace PACE assessments and shall include, but not be limited to, features for providing or obtaining information about a property's status with regard to PACE assessments placed on the property, whether recorded or not. All costs associated with the real-time registry or database system shall be apportioned among licensed program administrators based on the volume and amount of PACE assessments by each program administrator, or such other method that fairly apportions the costs, as required by rule. The commissioner may contract with an independent third party for the development and ongoing maintenance and support of the real-time registry or database system, and may require the program administrators to pay the cost of development and ongoing maintenance and support directly to the independent third party. In no event, the costs apportioned to a program administrator shall not exceed a reasonable regulatory cost.

(b) On January 1, 2020, the commissioner shall determine whether to proceed with a rulemaking action. This subdivision shall not restrict the ability of the commissioner to proceed with a rule under this section at any time.

22694. This chapter does not apply to a finance lender, mortgage loan originator, or broker licensee.

22695. (a) A violation of this chapter by any person is not subject to the criminal penalties established pursuant to Sections 22753 and 22780.

(b) Notwithstanding Section 22696, this section shall become operative on the effective date of this act.

22696. Except as provided in Sections 22684, 22685, 22686, 22687, 22688, and 22695, this chapter shall become operative on January 1, 2019.

22697. This chapter does not preclude or reduce any rights and remedies established under any other laws.

SEC. 72. Section 22700 of the Financial Code is amended to read:

22700. (a) Finance lender and broker 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 73. Section 22700 is added to the Financial Code, to read:

22700. (a) Finance lender, broker, and program administrator 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. 74. 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 in the administration and enforcement of this division, the commissioner may at any time investigate the loans and business, and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a finance lender or broker, 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 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 75. Section 22701 is added to the Financial Code, to read:

22701. (a) For the purpose of discovering violations of this division or securing information required by him or her in the administration and enforcement of this division, the commissioner may at any time investigate the loans, assessment contracts, and business, and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a finance lender, broker, 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 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. 76. 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 requires relative to loans or business regulated by this division or to the subject matter of any examination, investigation, or hearing.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 77. Section 22706 is added to the Financial Code, to read:

22706. (a) The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony he or she requires relative to loans, assessment contracts, or business 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. 78. 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 broker or finance lender, 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. 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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 79. Section 22712 is added to the Financial Code, to read:

22712. (a) Whenever, in the opinion of the commissioner, any person is engaged in business as a finance lender, broker, program administrator, 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. 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. 80. 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.

(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 remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 81. Section 22714 is added to the Financial Code, 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.

(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. 82. 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.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 83. Section 22716 is added to the Financial Code, 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, nor the validity and enforceability of any bonds issued and secured by such contracts. This division does not affect the validity and enforceability of any PACE assessment contracts entered into or bonds issues and secured by such contracts.

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

SEC. 84. Section 22753 of the Financial Code is amended to read:

22753. Except as provided in Section 22696, any person who willfully violates any provision of this division or who willfully violates any rule or order adopted pursuant to this division, 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, no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority in Section 22713.

SEC. 85. Section 22758 is added to the Financial Code, to read:

22758. This article does not apply to a program administrator or a PACE solicitor.

SEC. 86. Section 22780 of the Financial Code is amended to read:

22780. Except as provided in Section 22696, any person who willfully violates any provision of this division, or who willfully violates any rule or order adopted pursuant to this division, 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, no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 22713.

This article does not apply to a program administrator or PACE solicitor.

SEC. 87. This act does not impose any additional obligations on, nor does it expand or any way affect the authority of the Commissioner of Business Oversight over, a finance lender, mortgage loan originator, or broker licensee under the California Financing Law.

SEC. 88. Notwithstanding any other law to the contrary, the Commissioner of Business Oversight may, on or after the effective date of this act, take any necessary actions using the authority granted by this act in order to ensure that the licensing of program administrators and enrollment of PACE solicitors may commence by January 1, 2019, including, but not limited to, the adoption of regulations and preparation of necessary forms and procedures.

SEC. 89. The Legislature finds and declares that creating a comprehensive scheme to regulate program administrators is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to program administrators managing PACE programs on behalf of any public agency, including a charter city.

SEC. 90. The Legislature finds and declares that Section 71 of this act, which adds Section 22690 of the Financial Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of a program administrator, PACE solicitor, or PACE solicitor agent who has complied with the Commissioner of Business Oversight's demands, or otherwise reached a mutually agreeable resolution of any issues, during an investigation it is necessary to hold any examinations and correspondence related to that investigation confidential.

SEC. 91. No reimbursement is required by this act pursuant to Section 6 of Article XIII B 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 XIII B of the California Constitution.

SEC. 92. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Residential PACE assessments are among the fastest-growing types of property-secured financing in California, with cumulative assessments growing from \$350 million in 2014 to over \$2.6 billion in 2017. Companies administering PACE programs on behalf of California municipal governments have no state or national regulator and there are no requirements for these program administrators to determine a property owners ability to pay the PACE assessments. Further, recent reports indicate that default rates are rising, signaling the need for important consumer protections and government oversight. Therefore, in order that changes to the California Financing Law and the Property Assessed Clean Energy program with respect to program administrators take effect as soon as possible and to provide the Commissioner of Business Oversight with the statutory authority to begin the rulemaking process in order to carry out these changes and ensure that consumers are protected as soon as possible, it is necessary that this act take effect immediately.