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AB-2001 California Financing Law: remote work. (2021-2022)

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Assembly Bill No. 2001

CHAPTER 181

An act to amend Sections 22154 and 22155 of, and to add Section 22157.1 to, the Financial Code, relating to financial institutions.

[Approved by Governor August 26, 2022. Filed with Secretary of State August 26, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2001, Grayson. California Financing Law: remote work.

Existing law, the California Financing Law (CFL), prohibits a finance lender, broker, mortgage loan originator, or program administrator licensee from transacting the business licensed or making a loan or administering a PACE program provided for by the CFL under another name or at another place of business than that named in the license except pursuant to a currently effective written order of the Commissioner of Financial Protection and Innovation authorizing the other name or other place of business.

This bill would authorize a licensee under the CFL to designate an employee, when acting within the scope of employment, to perform work on the licensee's behalf at a remote location, as defined, if the licensee takes certain actions, including that the licensee prohibits a consumer's personal information from being physically stored at a remote location except for storage on an encrypted device or encrypted media. The bill would define "encrypted" for these purposes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 22154 of the Financial Code is amended to read:

22154. (a) Subject to Section 22157.1, 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.

SEC. 2. Section 22155 of the Financial Code is amended to read:

22155. Subject to Section 22157.1, 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:

(a) 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.

(b) 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.

SEC. 3. Section 22157.1 is added to the Financial Code, to read:

22157.1. (a) For purposes of this section:

(1) "Encrypted" has the same meaning as provided in paragraph (4) of subdivision (i) of Section 1798.82 of the Civil Code.

(2) "Remote location" means a personal residence or a temporary, nonpublic location not owned or leased by the licensee or an affiliate of the licensee that is not simultaneously accessible by anyone other than a single employee and individuals who maintain a common household with the employee.

(b) A licensee may designate an employee, when acting within the scope of employment, to perform work on the licensee's behalf at a remote location if the licensee does all of the following:

(1) Prohibits in-person consumer interactions, including the physical receipt of cash or other monetary value or the disbursement of loan proceeds, at a remote location and does not designate a remote location to the public as a business location.

(2) Prohibits records required pursuant to Section 22156 from being physically mailed to, shipped to, or stored at a remote location except for storage on an encrypted device or encrypted media.

(3) Prohibits the physical receipt of mail related to the licensee's licensed business at a remote location.

(4) Prohibits a consumer's personal information from being physically stored at a remote location except for storage on an encrypted device or encrypted media.

(5) Provides an employee working at a remote location with appropriate equipment, which may include encrypted devices, virtual private networks, and similar technology, to perform work and safeguard licensee records and consumer personal information.

(6) Adopts and adheres to appropriate, as determined by the department, written policies and procedures to supervise and maintain appropriate control over the work of employees at remote locations and safeguard the licensee's records and consumer personal information in connection with work at a remote location, including, but not limited to, all of the following elements:

(A) Employee data security training.

(B) Maintenance of security logs of remote logins.

(C) Procedures designed to detect suspicious logins or attempted logins and to suspend access by potentially compromised accounts or equipment.

(D) Data breach response procedures.

(7) (A) Records telephone calls with consumers conducted from a remote location to the same extent as telephone calls with consumers conducted from licensed locations.

(B) This paragraph does not require telephone call recording if the licensee does not do so in the normal course of business for the employee or business in question.

(8) All books, records, and persons that the commissioner is entitled to examine, inspect, or interview shall be made available to the commissioner at a licensed location.