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SB-800 Real estate: licenses. (2021-2022)

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Senate Bill No. 800

CHAPTER 431

An act to amend Sections 10050, 10083.2, 10147, 10148, 10150, 10151, 10151.5, 10153.8, 10159.5, 10162, 10165.1, 10166.07, 10167.3, 10167.9, 10167.95, 10170.8, 10176.1, 10177, 10231.2, 10232.1, 10232.2, 10235.5, 10236.2, 10249.3, 10249.8, 10249.9, 10471, 10471.1, 11003.4, 11010, 11011, 11012, 11013.6, 11225, 11232, 11301, 11302, 11310.1, 11313, 11314, 11315, 11320.5, 11326, 11328, 11328.1, 11343, 11345, 11345.05, 11345.2, 11345.3, 11400, 11401, 11406, 11406.5, 11407, 11408, 11409, and 11422 of, and to add Section 10151.2 to, the Business and Professions Code, relating to real estate.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 800, Archuleta. Real estate: licenses.

Existing law, the Real Estate Law, defines real estate brokers and salespersons and provides for their licensure and regulation, the administration of which is committed to the Real Estate Commissioner. Existing law, as of July 1, 2018, removed the Bureau of Real Estate from the Department of Consumer Affairs and instead made it a department within the Business, Consumer Services, and Housing Agency and renamed the bureau to the Department of Real Estate.

This bill would make conforming and nonsubstantive changes.

Existing law subjects the powers and duties of the department, under specified provisions of law, to review by the appropriate policy committees of the Legislature, performed as if those provisions were scheduled to be repealed as of January 1, 2022.

This bill would extend that date to January 1, 2026.

Existing law authorizes a person who has passed the applicable license examination, as provided, to apply for a real estate broker license or real estate salesperson license under the Real Estate Law by submitting an application in writing to the commissioner. Existing law authorizes the commissioner to prescribe the format and content of a license application.

This bill would require the commissioner to inquire in every application for licensure under the Real Estate Law if the individual applying for licensure is, or previously was, a member of the Armed Forces of the United States, as defined. The bill would require the commissioner to expedite, and authorize the commissioner to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the department that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. The bill would also require the commissioner to expedite the licensure process for an applicant who (1) supplies evidence satisfactory to the commissioner that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty

station in this state and (2) holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the commissioner.

Existing law authorizes the commissioner to suspend, revoke, delay renewal of, or deny the issuance of a license for various acts or failures to act. Those acts include an applicant or licensee having acted or conducted themselves in a manner that would have warranted the denial of their application for a real estate license, or either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked, surrendered, or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, surrender, or suspension by the other agency or entity was taken only after giving the licensee or applicant prescribed due process protections and only upon an express finding of a violation of law by the agency or entity.

This bill would add receiving an order of debarment by another agency or entity as a basis for suspension, revocation, delay of renewal, or denial of a license by the commissioner.

Existing law requires real estate licensees to comply with continuing education requirements adopted by the commissioner as a prerequisite to the renewal of real estate licenses on and after January 1, 1981. Existing law exempts from those continuing education requirements a real estate licensee who submits proof satisfactory to the commissioner that the licensee has been a real estate licensee in good standing for 30 continuous years in this state and is 70 years of age or older. The bill defines "real estate licensee in good standing" for this purpose to mean one who holds an active license that has not been suspended, revoked, or restricted as a result of disciplinary action.

This bill would require additionally for good standing that a licensee has not surrendered a license while under investigation or while subject to a disciplinary action, or received an order of debarment.

Existing law, the Real Estate Appraisers' Licensing and Certification Law, creates a Bureau of Real Estate Appraisers within the Department of Consumer Affairs to administer and enforce that law. Existing law subjects the powers and duties of the bureau to review by the appropriate policy committees of the Legislature, performed as if that law were scheduled to be repealed as of January 1, 2022.

This bill would extend that date to January 1, 2026.

This bill would incorporate additional changes to Section 10151 of the Business and Professions Code proposed by SB 263 to be operative only if this bill and SB 263 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 10050 of the Business and Professions Code is amended to read:

10050. (a) (1) There is in the Business, Consumer Services, and Housing Agency a Department of Real Estate, the chief officer of which department is named the Real Estate Commissioner.

(2) Notwithstanding any other law, the powers and duties of the department, as set forth in this part and Chapter 1 (commencing with Section 11000) of Part 2, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this part and that chapter were scheduled to be repealed as of January 1, 2026.

(b) It shall be the principal responsibility of the commissioner to enforce all laws in this part and Chapter 1 (commencing with Section 11000) of Part 2 in a manner that achieves the maximum protection for the buyers of real property and those persons dealing with real estate licensees.

(c) Wherever the term "commissioner" is used in this division, it means the Real Estate Commissioner.

(d) This section shall become operative on July 1, 2018.

SEC. 2. Section 10083.2 of the Business and Professions Code is amended to read:

10083.2. (a) (1) The commissioner shall provide information on the internet regarding the status of every license issued by the department in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(2) The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with

Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department.

(3) The public information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as the licensee's address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(4) The public information shall also include whether a licensee is an associate licensee within the meaning of subdivision (a) of Section 2079.13 of the Civil Code and, if the associate licensee is a broker, identify each responsible broker with whom the licensee is contractually associated as described in Section 10032 of this code or Section 2079.13 of the Civil Code.

(b) For purposes of this section, "internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(c) Upon petition by a licensee accompanied by a fee sufficient to defray costs associated with consideration of a petition, as described in Section 10223, the commissioner may remove from the posting of discipline described in subdivision (a) an item that has been posted on the department's internet website for no less than 10 years and for which the licensee provides evidence of rehabilitation indicating that the notice is no longer required in order to prevent a credible risk to members of the public utilizing licensed activity of the licensee. In evaluating a petition, the commissioner shall take into consideration other violations that present a credible risk to the members of the public since the posting of discipline requested for removal.

(d) The department may develop, through regulations, the amount of the fee and the minimum information to be included in a licensee's petition, including, but not limited to, a written justification and evidence of rehabilitation pursuant to Section 482.

(e) "Posted" for purposes of this section is defined as the date of disciplinary action taken by the department.

(f) The department shall maintain a list of all licensees whose disciplinary records are altered as a result of a petition approved under subdivision (c). The department shall make the list accessible to other licensing bodies. The department shall update and provide the list to other licensing bodies as often as it modifies the records displayed on its internet website in response to petitions approved under subdivision (c).

SEC. 3. Section 10147 of the Business and Professions Code is amended to read:

10147. (a) On or before January 1, 1993, the Alfred E. Alquist Seismic Safety Commission shall develop, adopt, and publish a Commercial Property Owner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.9 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the Alfred E. Alquist Seismic Safety Commission shall consult with the Office of Emergency Services, the California Geological Survey in the Department of Conservation, the Department of Real Estate, and other interested agencies and persons.

(c) The commission shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The commission shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions in the state.

(2) Explanations of typical structural and nonstructural earthquake hazards.

(3) Recommendations for mitigating the hazards of an earthquake, including references and explanations of what constitutes "adequate wall anchorage" as defined in Section 8893.1 of the Government Code.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the commission shall confer with insurers and design professional associations.

(5) Notice of the obligation to post a sign as required by Section 8875.8 of the Government Code.

SEC. 4. Section 10148 of the Business and Professions Code is amended to read:

10148. (a) A licensed real estate broker shall retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by the broker or obtained by the broker in connection with any transactions for which a real estate broker license is required. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated. After notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or the commissioner's designated representative during regular business hours; and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature. This subdivision shall not be construed to require a licensed real estate broker to retain electronic messages of an ephemeral nature, as described in subdivision (d) of Section 1624 of the Civil Code.

(b) The commissioner shall charge a real estate broker for the cost of any audit, if the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker has violated Section 10145 or a regulation or rule of the commissioner interpreting Section 10145.

(c) If a broker fails to pay for the cost of an audit as described in subdivision (b) within 60 days of mailing a notice of billing, the commissioner may suspend or revoke the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the cost is paid or until the broker's right to renew a license has expired.

(d) The commissioner may maintain an action for the recovery of the cost of an audit in any court of competent jurisdiction. In determining the cost incurred by the commissioner for an audit, the commissioner may use the estimated average hourly cost for all persons performing audits of real estate brokers.

(e) The department may suspend or revoke the license of any real estate broker, real estate salesperson, or corporation licensed as a real estate broker, if the real estate broker, real estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects that are required to be maintained by this section or that have been sought in connection with an investigation, audit, or examination of a real estate licensee by the commissioner.

SEC. 5. Section 10150 of the Business and Professions Code is amended to read:

10150. (a) Application for the real estate broker license examination shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the broker examination application. The application for the broker examination shall include valid contact information at which the department may contact the applicant and shall be accompanied by the real estate broker license examination fee.

(b) Persons who have been notified by the commissioner that they passed the real estate broker license examination may apply for a real estate broker license. A person applying for the broker examination may also apply for a real estate broker license. However, a license shall not be issued until the applicant passes the real estate broker license examination. If there is any change to the information contained in a real estate broker license application after the application has been submitted and before the license has been issued, the commissioner may require the applicant to submit a supplement to the application listing the changed information.

(c) Application for the real estate broker license shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the broker license application. The application for the real estate broker license shall include valid contact information at which the department may contact the applicant and shall be accompanied by the appropriate fee.

(d) Application for an endorsement to act as a mortgage loan originator, as defined in Section 10166.01, shall be made either electronically or in writing as directed by the commissioner. The commissioner may prescribe the format and content of the mortgage loan originator endorsement application, which shall meet the minimum requirements for licensing of a mortgage loan originator, pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

SEC. 6. Section 10151 of the Business and Professions Code is amended to read:

10151. (a) Application for the real estate salesperson license examination shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the salesperson examination application. The application for the salesperson examination shall include valid contact information at which the department may contact the applicant and shall be accompanied by the real estate salesperson license examination fee.

(b) Persons who have been notified by the commissioner that they passed the real estate salesperson license examination may apply for a real estate salesperson license. A person applying for the salesperson examination may also apply for a real estate

salesperson license. However, a license shall not be issued until the applicant passes the real estate salesperson license examination. If there is any change to the information contained in a real estate salesperson license application after the application has been submitted and before the license has been issued, the commissioner may require the applicant to submit a supplement to the application listing the changed information.

(c) (1) The commissioner may prescribe the format and content of the real estate salesperson license application. The application for the real estate salesperson license shall include valid contact information at which the department may contact the applicant.

(2) An application for the real estate salesperson license examination or for both the examination and license that is received by the commissioner on or after October 1, 2007, shall include evidence or certification, satisfactory to the commissioner, of successful completion at an accredited institution of a three-semester unit course, or the quarter equivalent thereof, or successful completion of an equivalent course of study as defined in Section 10153.5 in real estate principles as well as the successful completion at an accredited institution of a course in real estate practice and one additional course set forth in Section 10153.2, other than real estate principles, real estate practice, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal. The applicant shall provide this evidence or certification to the commissioner prior to taking the real estate salesperson license examination.

(d) The commissioner shall waive the requirements of this section for the following applicants:

(1) An applicant who is a member of the State Bar of California.

(2) An applicant who has qualified to take the examination for an original real estate broker license by satisfying the requirements of Section 10153.2.

(e) Application for endorsement to act as a mortgage loan originator, as defined in Section 10166.01, shall be made either electronically or in writing as directed by the commissioner. The commissioner may prescribe the format and the content of the mortgage loan originator endorsement application, which shall meet the minimum requirements for licensing of a mortgage loan originator, pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

SEC. 6.1. Section 10151 of the Business and Professions Code is amended to read:

10151. (a) Application for the real estate salesperson license examination shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the salesperson examination application. The application for the salesperson examination shall include valid contact information at which the department may contact the applicant and shall be accompanied by the real estate salesperson license examination fee.

(b) Persons who have been notified by the commissioner that they passed the real estate salesperson license examination may apply for a real estate salesperson license. A person applying for the salesperson examination may also apply for a real estate salesperson license. However, a license shall not be issued until the applicant passes the real estate salesperson license examination. If there is any change to the information contained in a real estate salesperson license application after the application has been submitted and before the license has been issued, the commissioner may require the applicant to submit a supplement to the application listing the changed information.

(c) (1) The commissioner may prescribe the format and content of the real estate salesperson license application. The application for the real estate salesperson license shall include valid contact information at which the department may contact the applicant.

(2) An application for the real estate salesperson license examination or for both the examination and license that is received by the commissioner on or after October 1, 2007, shall include evidence or certification, satisfactory to the commissioner, of successful completion at an accredited institution of a three-semester unit course, or the quarter equivalent thereof, or successful completion of an equivalent course of study as defined in Section 10153.5 in real estate principles as well as the successful completion at an accredited institution of a course in real estate practice and one additional course set forth in Section 10153.2, other than real estate principles, real estate practice, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal. The applicant shall provide this evidence or certification to the commissioner prior to taking the real estate salesperson license examination.

(d) The commissioner shall waive the requirements of this section for the following applicants:

(1) An applicant who is a member of the State Bar of California.

(2) An applicant who has qualified to take the examination for an original real estate broker license by satisfying the requirements of Section 10153.2.

(e) Application for endorsement to act as a mortgage loan originator, as defined in Section 10166.01, shall be made either electronically or in writing as directed by the commissioner. The commissioner may prescribe the format and the content of the

mortgage loan originator endorsement application, which shall meet the minimum requirements for licensing of a mortgage loan originator, pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

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

SEC. 6.2. Section 10151 is added to the Business and Professions Code, to read:

10151. (a) Application for the real estate salesperson license examination shall be made in writing to the commissioner. The commissioner may prescribe the format and content of the salesperson examination application. The application for the salesperson examination shall include valid contact information at which the department may contact the applicant and shall be accompanied by the real estate salesperson license examination fee.

(b) Persons who have been notified by the commissioner that they passed the real estate salesperson license examination may apply for a real estate salesperson license. A person applying for the salesperson examination may also apply for a real estate salesperson license. However, a license shall not be issued until the applicant passes the real estate salesperson license examination. If there is any change to the information contained in a real estate salesperson license application after the application has been submitted and before the license has been issued, the commissioner may require the applicant to submit a supplement to the application listing the changed information.

(c) (1) The commissioner may prescribe the format and content of the real estate salesperson license application. The application for the real estate salesperson license shall include valid contact information at which the department may contact the applicant.

(2) An application for the real estate salesperson license examination or for both the examination and license that is received by the commissioner on or after October 1, 2007, shall include evidence or certification, satisfactory to the commissioner, of successful completion at an accredited institution of a three-semester unit course, or the quarter equivalent thereof, or successful completion of an equivalent course of study as defined in Section 10153.5 in real estate principles as well as the successful completion at an accredited institution of a course in real estate practice, a course in fair housing set forth in Section 10153.2, and one additional course set forth in Section 10153.2, other than real estate principles, real estate practice, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal. The applicant shall provide this evidence or certification to the commissioner prior to taking the real estate salesperson license examination.

(d) The commissioner shall waive the requirements of this section for the following applicants:

(1) An applicant who is a member of the State Bar of California.

(2) An applicant who has qualified to take the examination for an original real estate broker license by satisfying the requirements of Section 10153.2.

(e) Application for endorsement to act as a mortgage loan originator, as defined in Section 10166.01, shall be made either electronically or in writing as directed by the commissioner. The commissioner may prescribe the format and the content of the mortgage loan originator endorsement application, which shall meet the minimum requirements for licensing of a mortgage loan originator, pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

(f) This section shall become operative on January 1, 2023.

SEC. 7. Section 10151.2 is added to the Business and Professions Code, to read:

10151.2. (a) For purposes of this section, "member of the Armed Forces of the United States" includes the following persons and no others: all members of the United States Army, the United States Navy, the United States Air Force, the United States Space Force, the Marine Corps, the Merchant Marine in time of war, the Coast Guard, the National Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy.

(b) The commissioner shall inquire in every application for licensure under this part if the individual applying for licensure is, or previously was, a member of the Armed Forces of the United States.

(c) The commissioner shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the department that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(d) The commissioner shall expedite the licensure process for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the commissioner that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the commissioner.

SEC. 8. Section 10151.5 of the Business and Professions Code is amended to read:

10151.5. (a) An applicant who is not a resident of this state shall be eligible for a real estate license provided (1) the applicant qualifies for licensure under this chapter, including Section 10162, and (2) the state or other jurisdiction that is the place of residence of the applicant permits a resident of California to qualify for and obtain a real estate license in that jurisdiction.

(b) A foreign corporation shall be exempt from the eligibility requirement set forth in clause (2) of subdivision (a) if, and for so long as, at least one of the officers of the corporation who is designated and licensed as a real estate broker pursuant to Section 10158 or 10211 is a resident of this state.

(c) Every nonresident applicant for a real estate license shall, along with their application, file with the Real Estate Commissioner an irrevocable consent that if in any action commenced against the person in this state, personal service of process upon the person cannot be made in this state after the exercise of due diligence, a valid service may thereupon be made upon the applicant by delivering the process to the Department of Real Estate.

SEC. 9. Section 10153.8 of the Business and Professions Code is amended to read:

10153.8. When an applicant for a real estate license fails the qualifying examination, the applicant may apply for reexamination by filing the appropriate application and fee.

The application and fee for reexamination shall be filed and the reexamination taken within the two-year period following the date the application for examination was filed.

SEC. 10. Section 10159.5 of the Business and Professions Code is amended to read:

10159.5. (a) (1) Every person applying for a license under this chapter who desires to have the license issued under a fictitious business name shall file with the application a certified copy of their fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

(2) A responsible broker may, by contract, permit a salesperson to do all of the following:

(A) File an application on behalf of a responsible broker with a county clerk to obtain a fictitious business name.

(B) Deliver to the department an application, signed by the responsible broker, requesting the department's approval to use a county approved fictitious business name that shall be identified with the responsible broker's license number.

(C) Pay for any fees associated with filing an application with a county or the department to obtain or use a fictitious business name.

(D) Maintain ownership of a fictitious business name, as defined in paragraph (2) of subdivision (a) of Section 10159.7, that may be used subject to the control of the responsible broker.

(b) (1) A salesperson using a fictitious business name authorized by subdivision (a), shall use that name only as permitted by the responsible broker.

(2) This section does not change a real estate broker's duties under this division to supervise a salesperson.

(c) A person applying to a county for a fictitious business name pursuant to subdivision (a) may file the application in the county or counties where the fictitious business name will be used.

(d) Advertising and solicitation materials, including business cards, print or electronic media and "for sale" signage, using a fictitious business name obtained in accordance with paragraph (2) of subdivision (a) shall include the responsible broker's identity, as defined in paragraph (1) of subdivision (a) of Section 10159.7, in a manner equally as prominent as the fictitious business name.

(e) Notwithstanding subdivision (b) of Section 10140.6, advertising and solicitation materials, including print or electronic media and "for sale" signage, containing a fictitious business name obtained in accordance with paragraph (2) of subdivision (a) shall include the name and license number of the salesperson who is using the fictitious business name.

(f) Notwithstanding Section 10185, a violation of this section is not a misdemeanor.

SEC. 11. Section 10162 of the Business and Professions Code is amended to read:

10162. (a) Every licensed real estate broker shall have and maintain a definite place of business in the State of California that serves as the broker's office for the transaction of business. This office shall be the place where the broker's license is displayed and where personal consultations with clients are held.

(b) A real estate license does not authorize the licensee to do business except from the location stipulated in the real estate license as issued or as altered pursuant to Section 10161.8.

(c) (1) Every real estate broker and salesperson licensee shall provide to the commissioner their current office or mailing address, a current telephone number, and a current electronic mail address that they maintain or use to perform any activity that requires a real estate license, at which the department may contact the licensee.

(2) Every real estate broker and salesperson licensee shall inform the commissioner of any change to their office or mailing address, telephone number, or electronic mail address no later than 30 days after making the change.

(d) Notwithstanding Section 10185, a violation of this section is not a misdemeanor.

SEC. 12. Section 10165.1 of the Business and Professions Code is amended to read:

10165.1. This article does not require the department to post or publish electronic mail addresses or telephone numbers collected pursuant to Section 10150, 10151, or 10162, and if released by the department, the information shall be released in a way that discourages its use in unauthorized or unsolicited commercial electronic mail advertisement programs.

SEC. 13. Section 10166.07 of the Business and Professions Code is amended to read:

10166.07. (a) A real estate broker who acts pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131, and who makes, arranges, or services one or more loans in a calendar year that are secured by real property containing one to four residential units, shall annually file a business activities report, within 90 days after the end of the broker's fiscal year or within any additional time as the commissioner may allow for filing for good cause. The report shall contain within its scope all of the following information for the fiscal year, relative to the business activities of the broker and those of any other brokers and real estate salespersons acting under that broker's supervision:

(1) Name and license number of the supervising broker and names and license numbers of the real estate brokers and salespersons under that broker's supervision. The report shall include brokers and salespersons who were under the supervising broker's supervision for all or part of the year.

(2) A list of the real estate-related activities in which the supervising broker and the brokers and salespersons under the supervising broker's supervision engaged during the prior year. This listing shall identify all of the following:

(A) Activities relating to mortgages, including arranging, making, or servicing.

(B) Other activities performed under the real estate broker's or salesperson's license.

(C) Activities performed under related licenses, including, but not limited to, a license to engage as a finance lender or a finance broker under the California Financing Law (Division 9 (commencing with Section 22000) of the Financial Code), or a license to engage as a residential mortgage lender or residential mortgage loan servicer under the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code).

(3) A list of the forms of media used by the broker and those under the broker's supervision to advertise to the public, including print, radio, television, the internet, or other means.

(4) For fixed rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest interest rate, highest interest rate, and a list of the institutional lenders of record. If the loan was funded by any lender other than an institutional lender, the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which Department of Real Estate form RE Form 885 or an equivalent is required.

(5) For adjustable rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest beginning interest rate, highest beginning interest rate, highest margin, and a list of the institutional lenders of record. If the loan was funded by any lender other than an institutional lender,

the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which Department of Real Estate form RE Form 885 or an equivalent is required.

(6) For all loans made, brokered, or serviced, the total number and aggregate principal amount of loans funded by institutional lenders, and the total number and aggregate principal amount of loans funded by private lenders.

(7) For all loans made, brokered, or serviced, the total number and aggregate principal amount of loans that included a prepayment penalty, the minimum prepayment penalty length, the maximum prepayment penalty length, and the number of loans with prepayment penalties whose length exceeded the length of time before the borrower's loan payment amount could increase.

(8) For all loans brokered, the total compensation received by the broker, including yield spread premiums, commissions, and rebates, but excluding compensation used to pay fees for third-party services on behalf of the borrower.

(9) For all mortgage loans made or brokered, the total number of loans for which a mortgage loan disclosure statement was provided in a language other than English, and the number of forms provided per language other than English.

(10) For all mortgage loans serviced, the total amount of funds advanced to be applied toward a payment to protect the security of the note being serviced.

(11) For purposes of this section, an institutional lender has the meaning specified in paragraph (1) of subdivision (c) of Section 10232.

(b) A broker subject to this section and Section 10232.2 may file consolidated reports that include all of the information required under this section and Section 10232.2. Those consolidated reports shall clearly indicate that they are intended to satisfy the requirements of both sections.

(c) If a broker subject to this section fails to timely file the report required under this section, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the commissioner's cost within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of that license. The suspension or denial shall remain in effect until the billed amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the billed amount in any court of competent jurisdiction.

(d) The report described in this section is exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code.

(e) The commissioner may waive the requirement to submit certain information described in paragraphs (1) to (10), inclusive, of subdivision (a) if the commissioner determines that this information is duplicative of information required by the Nationwide Mortgage Licensing System and Registry, pursuant to Section 10166.08.

SEC. 14. Section 10167.3 of the Business and Professions Code is amended to read:

10167.3. (a) A separate application for a license as a prepaid rental listing service shall be made in writing for each location to be operated by a licensee other than a real estate broker. Each application shall be on forms provided by the department, shall be signed by the applicant, and shall be accompanied by a one-hundred-twenty-five-dollar (\$125) application fee for the first location, and a fifty-dollar (\$50) application fee for each additional location of the applicant.

Applications to add or eliminate locations during the term of a license shall be on forms prescribed by the department. A fifty-dollar (\$50) application fee for the remainder of a license term for each location to be added shall accompany the application. Twenty-five dollars (\$25) of each application fee shall be credited to the Consumer Recovery Account.

(b) A real estate broker may provide a prepaid rental listing service at a licensed office for the conduct of the broker's real estate brokerage business if the business at the office is conducted under the immediate supervision of the broker or of a real estate salesperson licensed to, and acting on behalf of, the broker.

SEC. 15. Section 10167.9 of the Business and Professions Code is amended to read:

10167.9. (a) Prior to the acceptance of a fee, a licensee shall offer the prospective tenant a written contract, either on paper or in electronic form, which shall include at least the following:

(1) The name and license number of the licensee and the addresses and telephone numbers of the principal office or location of the licensee and of the location, or branch office of a real estate broker, providing the listing to the prospective tenant.

(2) Acknowledgment of receipt of the fee, including the amount.

(3) A description of the service to be performed by the licensee, including significant conditions, restrictions, and limitations when applicable.

(4) The prospective tenant's specifications for the rental property, including, but not limited to:

(A) Type of structure, including, but not limited to, detached single-family home, apartment, or duplex.

(B) Location by commonly accepted residential area name, by designation of boundary streets, or by any other manner affording a reasonable means of identifying locations acceptable to the prospective tenant.

(C) Furnished or unfurnished.

(D) Number of bedrooms required.

(E) Maximum acceptable monthly rental.

(5) The contract expiration date, which shall not be later than 90 days from the date of execution of the contract.

(6) A clause setting forth the right to a full or partial refund of the fee paid as provided in Section 10167.10.

(7) The signature and printed full name of the licensee or of the designated agent, real estate salesperson, or employee acting on behalf of the licensee. The signature of any person, including any signature required by the terms of the contract to be provided by the prospective tenant, may be provided in any electronic form that provides a reasonable method of indicating that the individual whose signature is required authorized the contract to be signed in that electronic form.

(8) A clause in bold type letters outlining the small claims court remedy available to the prospective tenant.

(9) A clause in boldface type letters clearly stating that the purchase of any goods and services other than the provision of listings of residential real properties for tenancy is optional.

(b) (1) The original of each contract, any separate contracts for required goods or services, refund claims, receipts and any other relevant documents shall be retained by the licensee for a period of not less than three years from the date of termination of the contract during that time the contract shall be subject to examination by a duly authorized representative of the commissioner. Any records retained pursuant to this subdivision that are stored in the ordinary course of business in digital media shall, upon request of a duly authorized representative of the commissioner, be provided on diskette, CD-ROM, or similar portable digital storage medium. For purposes of this subdivision, the "original" of a contract executed in electronic form shall be either the copy of the contract stored in digital media or a paper printout of that contract.

(2) Any licensee, or employee thereof, shall dispose of the documents required to be kept pursuant to paragraph (1) by shredding or other appropriate means so that the identity of the prospective tenant may not be determined from the disposed information alone or in combination with other publicly available information.

(c) The form of contract proposed to be used by a licensee to effect compliance with this section shall be filed with the department prior to use. Any modification of a form previously filed with the department, including a change in the name or business address of the licensee, shall also be filed prior to use. The department shall withhold the issuance or renewal of a license until the department has approved the contract. If a proposed modification to a contract has not been approved or disapproved within 15 working days of being filed with the department, the proposed modification shall be deemed approved. If a proposed modification or contract provision is disapproved, the department shall communicate that disapproval in writing to the licensee within 15 working days of being filed with the department, accompanied by a written justification of why the modification or contract provision is contrary to the requirements of this article.

(d) Notwithstanding any other law, a contract for prepaid rental listing services executed in electronic form, and signed in any electronic form that provides a reasonable method of indicating that the individual whose signature is required authorized the contract to be signed in electronic form, shall be valid to the same extent as an executed written contract. Upon request by the customer, the licensee shall deliver an executed paper copy to the customer within five working days of receiving the request.

SEC. 16. Section 10167.95 of the Business and Professions Code is amended to read:

10167.95. Prior to the acceptance of a fee, and in addition to the contract required pursuant to Section 10167.9, a licensee shall provide the prospective tenant with the following written notice, in a type size of at least 12-point type:

YOU MAY BE ENTITLED TO A REFUND IF YOU DO NOT RECEIVE THE SERVICES YOU HAVE BEEN PROMISED. COMPLETE TERMS AND CONDITIONS GOVERNING THE REFUND TO WHICH YOU MAY BE ENTITLED ARE CONTAINED IN YOUR CONTRACT. THE FOLLOWING IS A SIMPLIFIED SUMMARY OF SOME OF THE RIGHTS DESCRIBED IN YOUR CONTRACT:

If (name of licensee) does not provide you with at least three available rental properties meeting the specifications of your contract within five days after you pay the fee charged by (name of licensee), you are entitled to a full refund. To obtain this refund, you must request it from (name of licensee) in writing within 15 days of paying your fee.

If you do not obtain a rental through the services of (name of licensee) during the term of your contract, you are entitled to a refund of your fee, minus a service charge, which may not exceed ____ dollars (\$ ____). To obtain this refund, you must provide (name of licensee) with written documentation or a signed statement that you obtained a rental without the assistance of (name of licensee) or that you did not move. This documentation or signed statement must be provided to (name of licensee) with a written request for refund, within 10 days following the expiration of your contract.

If (name of licensee) fails to refund your money, as required by your contract, you may sue (name of licensee) in a small claims court. The court may award you the refund you failed to receive, plus additional damages, up to \$1,000.

If you wish to file a complaint about (name of licensee) or if you cannot collect on a court award, you should contact the Department of Real Estate at 1-877-373-4542 or www.dre.ca.gov.

SEC. 17. Section 10170.8 of the Business and Professions Code is amended to read:

10170.8. (a) This article shall not apply to a real estate licensee who submits proof satisfactory to the commissioner that the real estate licensee has been a real estate licensee in good standing for 30 continuous years in this state and is 70 years of age or older.

(b) A "real estate licensee in good standing" is one who holds an active license that has not been suspended, revoked, or restricted as a result of disciplinary action, who has not surrendered a license while under investigation or while subject to a disciplinary action, or received an order of debarment.

SEC. 18. Section 10176.1 of the Business and Professions Code is amended to read:

10176.1. (a) (1) Whenever the commissioner takes any enforcement or disciplinary action against a licensee, and the enforcement or disciplinary action is related to escrow services provided pursuant to paragraph (4) of subdivision (a) of Section 17006 of the Financial Code, upon the action becoming final the commissioner shall notify the Insurance Commissioner and the Commissioner of Financial Protection and Innovation of the action or actions taken. The purpose of this notification is to alert the departments that enforcement or disciplinary action has been taken, if the licensee seeks or obtains employment with entities regulated by the departments.

(2) The commissioner shall provide the Insurance Commissioner and the Commissioner of Financial Protection and Innovation, in addition to the notification of the action taken, with a copy of the written accusation, statement of issues, or order issued or filed in the matter and, at the request of the Insurance Commissioner or the Commissioner of Financial Protection and Innovation, with any underlying factual material relevant to the enforcement or disciplinary action. Any confidential information provided by the commissioner to the Insurance Commissioner or the Commissioner of Financial Protection and Innovation shall not be made public pursuant to this section. Notwithstanding any other law, the disclosure of any underlying factual material to the Insurance Commissioner or the Commissioner of Financial Protection and Innovation shall not operate as a waiver of confidentiality or any privilege that the commissioner may assert.

(b) The commissioner shall establish and maintain, on the internet website maintained by the Department of Real Estate, a database of its licensees, including those who have been subject to any enforcement or disciplinary action that triggers the notification requirements of this section. The database shall also contain a direct link to the databases, described in Section 17423.1 of the Financial Code and Section 12414.31 of the Insurance Code and required to be maintained on the internet websites of the Department of Financial Protection and Innovation and the Department of Insurance, respectively, of persons who have been subject to enforcement or disciplinary action for malfeasance or misconduct related to the escrow industry by the Insurance Commissioner and the Commissioner of Financial Protection and Innovation.

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

SEC. 19. Section 10177 of the Business and Professions Code is amended to read:

10177. The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for themselves or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) (1) Entered a plea of guilty or no contest to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw that licensee's plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(2) Notwithstanding paragraph (1), and with the recognition that sentencing may not occur for months or years following the entry of a guilty plea, the commissioner may suspend the license of a real estate licensee upon the entry by the licensee of a guilty plea to any of the crimes described in paragraph (1). If the guilty plea is withdrawn, the suspension shall be rescinded and the license reinstated to its status prior to the suspension. The department shall notify a person whose license is subject to suspension pursuant to this paragraph of that person's right to have the issue of the suspension heard in accordance with Section 10100.

(c) Knowingly authorized, directed, connived at, or aided in the publication, advertisement, distribution, or circulation of a material false statement or representation concerning their designation or certification of special education, credential, trade organization membership, or business, or concerning a business opportunity or a land or subdivision, as defined in Chapter 1 (commencing with Section 11000) of Part 2, offered for sale.

(d) Willfully disregarded or violated this part or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of this part and Chapter 1 (commencing with Section 11000) of Part 2.

(e) Willfully used the term "realtor" or a trade name or insignia of membership in a real estate organization of which the licensee is not a member.

(f) Acted or conducted themselves in a manner that would have warranted the denial of their application for a real estate license, either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked, surrendered, or suspended, or received an order of debarment, for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, surrender, suspension, or debarment by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

(g) Demonstrated negligence or incompetence in performing an act for which the officer, director, or person is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of that licensee's salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

(i) Used their employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

(j) Engaged in any other conduct, whether of the same or of a different character than specified in this section, that constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

(l) (1) Solicited or induced the sale, lease, or listing for sale or lease of residential property on the grounds, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons having a characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those characteristics are defined in Sections 12926 and 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(m) Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Financial Protection and Innovation pertaining thereto.

(n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) or the regulations of the Commissioner of Financial Protection and Innovation pertaining thereto.

(o) Failed to disclose to the buyer of real property, in a transaction in which the licensee is an agent for the buyer, the nature and extent of a licensee's direct or indirect ownership interest in that real property. The direct or indirect ownership interest in the property by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee has a special relationship shall be disclosed to the buyer.

(p) Violated Article 6 (commencing with Section 10237).

(q) Violated or failed to comply with Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code, relating to mortgages.

If a real estate broker that is a corporation has not done any of the foregoing acts, either directly or through its employees, agents, officers, directors, or persons owning or controlling 10 percent or more of the corporation's stock, the commissioner may not deny the issuance or delay the renewal of a real estate license to, or suspend or revoke the real estate license of, the corporation, provided that any offending officer, director, or stockholder, who has done any of the foregoing acts individually and not on behalf of the corporation, has been completely disassociated from any affiliation or ownership in the corporation. A decision by the commissioner to delay the renewal of a real estate license shall toll the expiration of that license until the results of any pending disciplinary actions against that licensee are final, or until the licensee voluntarily surrenders the licensee's license, whichever is earlier.

SEC. 20. Section 10231.2 of the Business and Professions Code is amended to read:

10231.2. (a) A real estate broker who, through express or implied representations that the broker or any salesperson acting on the broker's behalf is engaging in acts for which a real estate license is required by subdivision (d) or (e) of Section 10131, proposes to solicit and accept funds, or to cause the solicitation and acceptance of funds, to be applied to a purchase or loan transaction in which the broker will directly or indirectly obtain the use or benefit of the funds other than for commissions, fees, and costs and expenses as provided by law for the broker's services as an agent, shall, prior to the making of any representation, solicitation, or presentation of the statement described in subdivision (b), submit the following to the Department of Real Estate:

(1) A true copy of the statement described in subdivision (b) complete except for the signature of the prospective lender or purchaser.

(2) A statement that the submittal is being made to the department pursuant to Section 10231.2.

(b) A broker making a solicitation pursuant to subdivision (a) shall deliver, or cause to be delivered, to the person solicited, the applicable completed statement described in Section 10232.5 not less than 24 hours before the earlier of the acceptance of any funds from that person by or on behalf of the broker or the execution of any instrument obligating the person to make the loan or purchase. The statement shall be signed by the prospective lender or purchaser and by the real estate broker or, on the broker's behalf, by a real estate salesperson licensed to the broker. When so executed, an exact copy of the executed statement shall be given to the prospective lender or purchaser, and the broker shall retain a true copy of the executed statement for a period of four years.

(c) None of the provisions of subdivision (a) or (b) shall apply in the case of an offering of a security authorized pursuant to applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

(d) In the case of a solicitation by a corporate real estate broker, the provisions of subdivisions (a) and (b) shall apply if the funds solicited are intended for the direct or indirect use or benefit of an officer or director of the corporation or of a person with a 10-percent or greater ownership interest in the corporation.

SEC. 21. Section 10232.1 of the Business and Professions Code is amended to read:

10232.1. (a) A real estate broker, prior to the use of any proposed advertisement in connection with the conduct of activities described in subdivisions (d) and (e) of Section 10131 and Section 10131.1, may submit a true copy thereof to the Department of Real Estate for approval. The submission shall be accompanied by a fee of not more than forty dollars (\$40). The commissioner shall by regulation prescribe the amount of the fee. If disapproval of the proposed advertisement is not communicated by the department to the broker within 15 calendar days after receipt of the copy of the proposed advertisement by the department, the proposed advertisement shall be deemed approved, but the department shall not be precluded from disapproving a later publication or other use of the same or similar advertising.

The commissioner shall adopt regulations pertaining to the submittal and clearance of that advertising and establishing criteria for approval to ensure that the public will be protected against false or misleading representations.

Except as provided in subdivision (b), "advertisement" includes dissemination in any newspaper, circular, form letter, brochure or similar publication, display, sign, radio broadcast or telecast, which concerns (1) the use, terms, rates, conditions, or the amount of any loan or sale referred to in subdivisions (d) and (e) of Section 10131 or Section 10131.1 or (2) the security, solvency, or stability of any person carrying on the activities described in those sections.

(b) "Advertisement" does not include a letter or brochure that meets both of the following criteria:

(1) It is restricted in distribution to other real estate brokers and to persons for whom the broker has previously acted as an agent in arranging a loan secured by real property or in the purchase, sale, or exchange of a deed of trust or real property sales contract.

(2) It is restricted in content to the identification and a description of the terms of loans, mortgages, deeds of trust, real property sales contracts, or any combination thereof offered for funding or purchase through the broker as agent.

(c) Subdivision (a) is not applicable to advertising that is used exclusively in connection with an offering authorized by permit issued pursuant to the applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

(d) All advertising approvals shall be for a period of five years after the date of approval. The approval period applies to all advertising, including that which was previously submitted on a mandatory basis.

SEC. 22. Section 10232.2 of the Business and Professions Code is amended to read:

10232.2. A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the Department of Real Estate within 90 days after the end of the broker's fiscal year or within any additional time as the Real Estate Commissioner may allow for filing for good cause:

(a) The report of a review by a licensed California independent public accountant of trust fund financial statements, conducted in accordance with generally accepted accounting practices, which shall include within its scope the following information for the fiscal year relative to the business activities of the broker described in subdivisions (d) and (e) of Section 10131:

(1) The receipt and disposition of all funds of others to be applied to the making of loans and the purchasing of promissory notes or real property sales contracts.

(2) The receipt and disposition of all funds of others in connection with the servicing by the broker of the accounts of owners of promissory notes and real property sales contracts including installment payments and loan or contract payoffs by obligors.

(3) A statement as of the end of the fiscal year that shall include an itemized trust fund accounting of the broker and confirmation that the trust funds are on deposit in an account or accounts maintained by the broker in a financial institution.

(b) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year, accepted for the benefit of a person to whom the broker is a trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the broker's fiscal year or, within any additional time as the commissioner may allow for a filing for good cause, a notarized statement under penalty of perjury on a form provided by the department attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal year.

(c) A report of all of the following aspects of the business conducted by the broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1:

- (1) Number and aggregate dollar amount of loan, trust deed sales, and real property sales contract transactions negotiated.
- (2) Number and aggregate dollar amount of promissory notes and contracts serviced by the broker or an affiliate of the broker.
- (3) Number and aggregate dollar amount of late payment charges, prepayment penalties, and other fees or charges collected and retained by the broker under servicing agreements with beneficiaries and obligees.
- (4) Default and foreclosure experience in connection with promissory notes and contracts subject to servicing agreements between the broker and beneficiaries or obligees.
- (5) Commissions received by the broker for services performed as agent in negotiating loans and sales of promissory notes and real property sales contracts.
- (6) Aggregate costs and expenses as referred to in Section 10241 paid by borrowers to the broker.

(d) The commissioner shall adopt regulations prescribing the form and content of the report referred to in subdivision (c) with appropriate categories to afford a better understanding of the business conducted by the broker.

(e) If the broker fails to file either of the reports required under subdivisions (a) and (c) within the time permitted herein, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report. In determining the hourly cost incurred by the commissioner for conducting an examination and preparing the report, the commissioner may use the estimated average hourly cost for all department audit staff performing audits of real estate brokers. If a broker fails to pay the above amount within 60 days of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the above amount is paid or the broker's right to renew a license has expired. The commissioner may maintain an action for the recovery of the above amount in any court of competent jurisdiction.

(f) The reports referred to in subdivisions (a) and (c) are exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code. The commissioner shall annually make and file as a public record, a composite of the annual reports and any comments thereon that are deemed to be in the public interest.

SEC. 23. Section 10235.5 of the Business and Professions Code is amended to read:

10235.5. (a) A real estate licensee or mortgage loan originator shall not place an advertisement disseminated primarily in this state for a loan unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the Department of Real Estate number and the unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry under which the loan would be made or arranged.

(b) "Mortgage loan originator," "unique identifier," and "Nationwide Mortgage Licensing System and Registry" have the meanings set forth in Section 10166.01.

SEC. 24. Section 10236.2 of the Business and Professions Code is amended to read:

10236.2. (a) A real estate broker who satisfies the criteria of subdivision (a) or (b) of Section 10232 and who fails to notify the Department of Real Estate, in writing, of that fact within 30 days thereafter as required by subdivision (e) of Section 10232 shall be assessed a penalty of fifty dollars (\$50) per day for each additional day written notification has not been received up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day the penalty is one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of days, until the department receives the written notification.

(b) The commissioner may suspend or revoke the license of any real estate broker who fails to pay a penalty imposed under this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of the penalty.

(c) All penalties paid or collected under this section shall be deposited into the Consumer Recovery Account of the Real Estate Fund.

SEC. 25. Section 10249.3 of the Business and Professions Code is amended to read:

10249.3. (a) The commissioner may by regulation prescribe filing fees in connection with registrations with the department pursuant to the provisions of this article that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this article. The

commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fee for an application for a registration with the department pursuant to the provisions of this article shall not exceed the following for each subdivision or phase of the subdivision in which interests are to be offered for sale or lease:

(1) An application for an original registration: One hundred dollars (\$100).

(2) An application for a renewal registration: One hundred dollars (\$100).

(3) An application for an amended registration: One hundred dollars (\$100).

(c) All fees collected by the Department of Real Estate under authority of this article shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. All fees received by the department pursuant to the provisions of this article shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as a result of mistake or inadvertence.

SEC. 26. Section 10249.8 of the Business and Professions Code is amended to read:

10249.8. (a) Notwithstanding any provision to the contrary in Section 10249 or 11000, it is unlawful for a person, in this state, to sell or lease or offer for sale or lease lots, parcels, or interests in a subdivision, as defined in Section 10249.1, entirely located outside of this state but within the United States, unless any printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in at least 10-point type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT INSPECTED, EXAMINED, OR QUALIFIED THIS OFFERING.

(b) If an offer on property described in subdivision (a) is not initially made in writing, the disclaimer set forth in subdivision (c) shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(c) If a California resident is presented with an agreement or contract to lease or purchase any property described in subdivision (a), when an offer to lease or purchase that property was made to that resident in California, a copy of the disclaimer set forth in this subdivision shall be inserted in at least 10-point type at the top of the first page of that agreement or contract and shall be initialed by that California resident.

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT QUALIFIED, INSPECTED, OR EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS SUBDIVISION IS SITUATED.

SEC. 27. Section 10249.9 of the Business and Professions Code is amended to read:

10249.9. (a) Notwithstanding any provision to the contrary in Section 10249 or 11000, it is unlawful for a person, in this state, to sell or lease or offer for sale or lease a lot, parcel, or interest in a subdivision, located outside the United States, unless the printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in at least 10-point capital type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE COUNTRY WHERE THIS SUBDIVISION IS SITUATED.

(b) If an offer on property described in subdivision (a) is not initially made in writing, the foregoing disclaimer shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(c) If any California resident is presented with an agreement or contract to lease or purchase a property described in subdivision (a), when an offer to lease or purchase that property was made to that resident in California, a copy of the disclaimer set forth in subdivision (a) shall be inserted in at least 10-point type at the top of the first page of that agreement or contract and shall be initialed by that California resident.

SEC. 28. Section 10471 of the Business and Professions Code is amended to read:

10471. (a) When an aggrieved person obtains (1) a final judgment in a court of competent jurisdiction, including, but not limited to, a criminal restitution order issued pursuant to subdivision (f) of Section 1202.4 of the Penal Code or Section 3663 of Title 18 of the United States Code, or (2) an arbitration award that includes findings of fact and conclusions of law rendered in accordance with the rules established by the American Arbitration Association or another recognized arbitration body, and in accordance with Sections 1281 to 1294.2, inclusive, of the Code of Civil Procedure when applicable, and when the arbitration award has been confirmed and reduced to judgment pursuant to Section 1287.4 of the Code of Civil Procedure, against a defendant based upon the defendant's fraud, misrepresentation, or deceit, made with intent to defraud, or conversion of trust funds, arising directly out of any transaction in which the defendant, while licensed under this part, performed acts for which a real estate license or a prepaid rental listing service license was required, the aggrieved person may, upon the judgment becoming final, file an application with the Department of Real Estate for payment from the Consumer Recovery Account, within the limitations specified in Section 10474, of the amount unpaid on the judgment that represents an actual and direct loss to the claimant in the transaction. As used in this chapter, "court of competent jurisdiction" includes the federal courts, but does not include the courts of another state.

(b) The application shall be delivered in person or by certified mail to an office of the department not later than one year after the judgment has become final.

(c) The application shall be made on a form prescribed by the department, verified by the claimant, and shall include the following:

(1) The name and address of the claimant.

(2) If the claimant is represented by an attorney, the name, business address, and telephone number of the attorney.

(3) The identification of the judgment, the amount of the claim and an explanation of its computation.

(4) A detailed narrative statement of the facts in explanation of the allegations of the complaint upon which the underlying judgment is based.

(5) (A) Except as provided in subparagraph (B), a statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying judgment is based was prosecuted conscientiously and in good faith. As used in this section, "conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that the claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Consumer Recovery Account.

(B) For the purpose of an application based on a criminal restitution order, all of the following statements by the claimant:

(i) The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order.

(ii) The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order.

(iii) The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Consumer Recovery Account.

(6) The name and address of the judgment debtor or, if not known, the names and addresses of persons who may know the judgment debtor's present whereabouts.

(7) The following representations and information from the claimant:

(A) That the claimant is not a spouse of the judgment debtor nor a personal representative of the spouse.

(B) That the claimant has complied with all of the requirements of this chapter.

(C) That the judgment underlying the claim meets the requirements of subdivision (a).

(D) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(E) That the claimant has diligently pursued collection efforts against all judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment.

(F) That the underlying judgment and debt have not been discharged in bankruptcy, or, in the case of a bankruptcy proceeding that is open at or after the time of the filing of the application, that the judgment and debt have been declared to be nondischargeable.

(G) That the application was mailed or delivered to the department no later than one year after the underlying judgment became final.

(d) If the claimant is basing the application upon a judgment against a salesperson, and the claimant has not obtained a judgment against that salesperson's employing broker, if any, or has not diligently pursued the assets of that broker, the application shall be denied for failure to diligently pursue the assets of all other persons liable to the claimant in the transaction unless the claimant can demonstrate, by clear and convincing evidence, either that the salesperson was not employed by a broker at the time of the transaction, or that the salesperson's employing broker would not have been liable to the claimant because the salesperson was acting outside the scope of their employment by the broker in the transaction.

(e) The application form shall include detailed instructions with respect to documentary evidence, pleadings, court rulings, the products of discovery in the underlying litigation, and a notice to the applicant of their obligation to protect the underlying judgment from discharge in bankruptcy, to be appended to the application.

(f) An application for payment from the Consumer Recovery Account that is based on a criminal restitution order shall comply with all of the requirements of this chapter. For the purpose of an application based on a criminal restitution order, the following terms have the following meanings:

(1) "Judgment" means the criminal restitution order.

(2) "Complaint" means the facts of the underlying transaction upon which the criminal restitution order is based.

(3) "Judgment debtor" means any defendant who is the subject of the criminal restitution order.

SEC. 29. Section 10471.1 of the Business and Professions Code is amended to read:

10471.1. (a) The claimant shall serve a copy of the notice prescribed in subdivision (e) together with a copy of the application upon the judgment debtor by personal service, by certified mail, or by publication, as set forth in subdivision (b).

(b) If the judgment debtor holds an unexpired and unrevoked license issued by the department, service of the notice and a copy of the application may be made by certified mail addressed to the judgment debtor at the latest business or residence address on file with the department. If the judgment debtor does not hold an unexpired and unrevoked license issued by the department and personal service cannot be effected through the exercise of reasonable diligence, the claimant shall serve the judgment debtor by one publication of the notice in each of two successive weeks in a newspaper of general circulation published in the county in which the judgment debtor was last known to reside.

(c) If the application is served upon the judgment debtor by certified mail, service is complete five days after mailing if the place of address is within the State of California, 10 days after mailing if the place of address is outside the State of California but within the United States, and 20 days after mailing if the place of address is outside the United States. Personal service is complete on the date of service. Service by publication is complete upon completion of the second week of publication.

(d) If a judgment debtor wishes to contest payment of an application by the commissioner, the debtor shall mail or deliver a written response to the application addressed to the department at its headquarters office within 30 days after service of the notice and application, and shall mail or deliver a copy of the response to the claimant. If a judgment debtor fails to mail or deliver a timely response, the debtor shall have waived their right to present objections to payment.

(e) The notice served upon the judgment debtor shall include the following statement:

"NOTICE: Based upon a judgment entered against you in favor of (name of claimant), application for payment from the Consumer Recovery Account of the Real Estate Fund is being made to the Department of Real Estate.

"If payment is made from the Consumer Recovery Account, all licenses and license rights that you have under the Real Estate Law will be automatically suspended on the date of payment and cannot be reinstated until the Consumer Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

"If you wish to contest payment by the Real Estate Commissioner, you must file a written response to the application addressed to the Department of Real Estate at _____ within 30 days after mailing, delivery, or publication of this notice and mail or deliver a copy of that response to the claimant. If you fail to do so, you will have waived your right to present your objections to payment."

(f) If a judgment debtor fails to mail or deliver a written response to the application with the department within 30 days after personal service, mailing, or final publication of the notice, the judgment debtor shall not thereafter be entitled to notice of any action taken or proposed to be taken by the commissioner with respect to the application.

SEC. 30. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A "limited-equity housing cooperative" or a "workforce housing cooperative trust" is a corporation that meets the criteria of Section 11003.2 and that also meets the criteria of Sections 817 and 817.1 of the Civil Code, as applicable. Except as provided in subdivision (b), a limited-equity housing or workforce housing cooperative trust shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative or a workforce housing cooperative trust shall be exempt from the requirements of this chapter if the limited-equity housing cooperative or workforce housing cooperative trust complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the United States Department of Agriculture, the National Consumers Cooperative Bank, the California Housing Finance Agency, the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Department of Housing and Community Development, the Federal Home Loan Bank System or any of its member institutions, a state or federally chartered credit union, a state or federally certified community development financial institution, or the city, county, school district, or redevelopment agency in which the cooperative is located, alone or in any combination with each other, directly finances or subsidizes at least 50 percent of the total construction or development cost or one hundred thousand dollars (\$100,000), whichever is less; or the real property to be occupied by the cooperative was sold or leased by the Transportation Agency, other state agency, a city, a county, or a school district for the development of the cooperative and has a regulatory agreement approved by the Department of Housing and Community Development for the term of the permanent financing, notwithstanding the source of the permanent subsidy or financing.

(2) No more than 20 percent of the total development cost of a limited-equity mobilehome park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.

(3) A regulatory agreement that covers the cooperative for a term of at least as long as the duration of the permanent financing or subsidy, notwithstanding the source of the permanent subsidy or financing, has been duly executed between the recipient of the financing and either one of the federal or state agencies specified in paragraph (1) or a local public agency that is providing financing for the project under a regulatory agreement meeting standards of the Department of Housing and Community Development. The regulatory agreement shall make provision for at least all of the following:

(A) Assurances for completion of the common areas and facilities to be owned or leased by the limited-equity housing cooperative, unless a construction agreement between the same parties contains written assurances for completion.

(B) Governing instruments for the organization and operation of the housing cooperative by the members.

(C) The ongoing fiscal management of the project by the cooperative, including an adequate budget, reserves, and provisions for maintenance and management.

(D) Distribution of a membership information report to any prospective purchaser of a membership share, prior to purchase of that share. The membership information report shall contain full disclosure of the financial obligations and responsibilities of cooperative membership, the resale of shares, the financing of the cooperative including any arrangements made with any partners, membership share accounts, occupancy restrictions, management arrangements, and any other information pertinent to the benefits, risks, and obligations of cooperative ownership.

(4) Each party that executes the regulatory agreement shall satisfy itself that the bylaws, articles of incorporation, occupancy agreement, subscription agreement, any lease of the regulated premises, any arrangement with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) Each provider of financing or subsidies shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 817 of the Civil Code and the exemption provided by this section.

(c) Any limited-equity cooperative, or workforce housing cooperative trust that meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the Department of Real Estate, on a form provided by the department, that an exemption is claimed under this section. The Department of Real Estate shall retain this form for at least four years for statistical purposes.

SEC. 31. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness that has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) A notice pursuant to Section 1102.6c of the Civil Code.

(12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the department with the name, address, and telephone number of that district.

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(15) A true statement of whether or not fill is used, or is proposed to be used, in the subdivision and a statement giving the name and the location of the public agency when information concerning soil conditions in the subdivision is available.

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) If the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Website. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please

be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(18) Any other information that the owner, their agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

SEC. 32. Section 11011 of the Business and Professions Code is amended to read:

11011. (a) The commissioner may by regulation prescribe filing fees in connection with applications to the Department of Real Estate pursuant to this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fee for an application for a public report to be issued under authority of this chapter shall not exceed the following for each subdivision or phase of a subdivision in which interests are to be offered for sale or lease:

(1) A notice of intention without a completed questionnaire: One hundred fifty dollars (\$150).

(2) An original public report for subdivision interests described in Section 11004.5: One thousand seven hundred dollars (\$1,700) plus ten dollars (\$10) for each subdivision interest to be offered.

(3) An original public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars (\$600) plus ten dollars (\$10) for each subdivision interest to be offered.

(4) A conditional public report for subdivision interests described in Section 11004.5: Five hundred dollars (\$500).

(5) A conditional public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars (\$500).

(6) A preliminary public report for subdivision interests described in Section 11004.5: Five hundred dollars (\$500).

(7) A preliminary public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars (\$500).

(8) A renewal public report for subdivision interests described in Section 11004.5: Six hundred dollars (\$600).

(9) A renewal public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars (\$600).

(10) An amended public report for subdivision interests described in Section 11004.5: Five hundred dollars (\$500) plus ten dollars (\$10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(11) An amended public report to offer subdivision interests other than those described in Section 11004.5: Five hundred dollars (\$500) plus ten dollars (\$10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(c) The filing fee to review a declaration as described in Section 11010.10 shall not exceed two hundred dollars (\$200).

(d) The actual subdivision fees established by regulation under authority of this section and Section 10249.3 shall not exceed the amount reasonably required by the department to administer this part and Article 8 (commencing with Section 10249) of Chapter 3 of Part 1.

(e) All fees collected by the department under authority of this chapter shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. All fees received by the department pursuant to this chapter shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as the result of a mistake or inadvertence.

This section shall remain in effect unless it is superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

SEC. 33. Section 11012 of the Business and Professions Code is amended to read:

11012. It is unlawful for the owner, their agent, or subdivider, of the project, after it is submitted to the Department of Real Estate, to materially change the setup of that offering without first notifying the department in writing of the intended change. This section only applies to those changes of which the owner, their agent, or subdivider has knowledge or constructive knowledge.

SEC. 34. Section 11013.6 of the Business and Professions Code is amended to read:

11013.6. Notwithstanding Sections 11013.1 and 11013.2, an individual interest in a stock cooperative, as defined in Section 4190 of the Civil Code, or a limited-equity housing cooperative, as defined in Section 817 of the Civil Code, may be sold or leased subject to a blanket encumbrance if all of the following conditions are met:

(a) The notice required pursuant to Section 1133 of the Civil Code is provided to each prospective purchaser and lessee of the interest and is included in every purchase and lease contract.

(b) The property subject to the sale or lease has obtained a public report from the Department of Real Estate that accounts for the blanket encumbrance.

(c) The governing documents for the association require the association to create and maintain during the term of the blanket encumbrance all of the following:

(1) Prior to the sale of any individual interests in the stock cooperative or limited-equity housing cooperative, a financing reserve amount equal to at least two months of the amount of the debt service payments due on the blanket encumbrance.

(2) Within one year of the sale of at least 25 percent of the individual interests in the stock cooperative or limited-equity housing cooperative, a financing reserve amount equal to at least three months of the amount of the debt service payments due on the blanket encumbrance.

(3) Within one year of the sale of at least 50 percent of the individual interests in the stock cooperative or limited-equity housing cooperative, a financing reserve amount equal to at least five months of the amount of the debt service payments due on the blanket encumbrance.

(4) Within one year of the sale of at least 75 percent of the individual interests in the stock cooperative or limited-equity housing cooperative, a financing reserve amount equal to at least eight months of the amount of the debt service payments due on the blanket encumbrance.

SEC. 35. Section 11225 of the Business and Professions Code is amended to read:

11225. A person shall not be required to register a time-share plan with the commissioner pursuant to this chapter if any of the following applies:

(a) The person is an owner of a time-share interest who has acquired the time-share interest for the person's own use and occupancy and who later offers it for resale.

(b) The person is a managing entity or an association that is not otherwise a developer of a time-share plan in its own right, solely while acting as an association or under a contract with an association to offer or sell a time-share interest transferred to the association through foreclosure, deed in lieu of foreclosure, or gratuitous transfer, if these acts are performed in the regular course of, or as an incident to, the management of the association for its own account in the time-share plan. Notwithstanding the exemption from registration, the association or managing entity shall provide each purchaser of a time-share interest covered by this subdivision a copy of the time-share instruments, a copy of the then-current budget, a written statement of the then-current assessment amounts, and shall provide the purchaser the opportunity to rescind the purchase within seven days after receipt of these documents. Immediately prior to the space reserved in the contract for the signature of the purchaser, the association or managing entity shall disclose, in conspicuous type, substantially the following notice of cancellation:

YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION WITHIN SEVEN CALENDAR DAYS OF RECEIPT OF THE PUBLIC REPORT OR AFTER THE DATE YOU SIGN THIS CONTRACT, WHICHEVER DATE IS LATER. IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE ASSOCIATION (OR MANAGING ENTITY) IN WRITING OF YOUR INTENT TO CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT TO (NAME OF ASSOCIATION OR MANAGING ENTITY) AT (ADDRESS OF ASSOCIATION OR MANAGING ENTITY). YOUR NOTICE OF CANCELLATION MAY ALSO BE SENT BY FACSIMILE TO (FACSIMILE NUMBER OF THE ASSOCIATION OR MANAGING ENTITY) OR BY HAND-DELIVERY. ANY ATTEMPT TO OBTAIN A WAIVER OF YOUR CANCELLATION RIGHT IS VOID AND OF NO EFFECT.

(c) The person is conveyed, assigned, or transferred more than seven time-share interests from a developer in a single voluntary or involuntary transaction and subsequently conveys, assigns, or transfers all of the time-share interests received from the developer to a single purchaser in a single transaction.

(d) (1) The developer is offering or disposing of a time-share interest to a purchaser who has previously acquired a time-share interest from the same developer if the developer has a time-share plan registered under this chapter, which was originally approved by the commissioner within the preceding seven years, and the developer complies in all respects with the provisions of Section 11245, and, further, provides the purchaser with (A) a cancellation period of at least seven days, (B) all the time-share disclosure documents that are required to be provided to purchasers as if the sale occurred in the state or jurisdiction where the time-share property is located, and (C) the following disclaimer in conspicuous type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

(2) By making that offering or disposition, the person is deemed to consent to the jurisdiction of the commissioner in the event of a dispute with the purchaser in connection with the offering or disposition.

(e) It is a single site time-share plan located outside of the boundaries of the United States or component site of a specific time-share interest multisite time-share plan located wholly outside of the boundaries of the United States, or a nonspecific time-share interest multisite time-share plan in which all component sites are located wholly outside of the boundaries of the United States. However, it is unlawful and a violation of this chapter for a person, in this state, to sell or lease or offer for sale or lease a time-share interest in a time-share plan, located outside the United States, unless the printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in capital letters of at least 10-point type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE COUNTRY WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

(1) If an offer of time-share interest in a time-share plan described in this subdivision is not initially made in writing, the foregoing disclaimer shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(2) If any California resident is presented with an agreement or purchase contract to lease or purchase a time-share interest as described in this subdivision, when an offer to lease or purchase that time-share interest was made to that resident in California, a copy of the disclaimer set forth in this subdivision shall be inserted in at least 10-point type at the top of the first page of that agreement or purchase contract and shall be initialed by that California resident.

(3) This subdivision shall not be deemed to exempt from registration in this state a nonspecific time-share interest multisite time-share plan in which any component site in the time-share plan is located in the United States.

SEC. 36. Section 11232 of the Business and Professions Code is amended to read:

11232. (a) The commissioner may by regulation prescribe filing fees in connection with applications to the Department of Real Estate for a public report pursuant to the provisions of this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the

administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fees for an application for a public report to be issued under authority of this chapter shall not exceed the following for each time-share plan, location, or phase of the time-share plan in which interests are to be offered for sale or lease:

(1) One thousand seven hundred dollars (\$1,700) plus ten dollars (\$10) for each time-share interest to be offered for an original public report application.

(2) Six hundred dollars (\$600) plus ten dollars (\$10) for each time-share plan interest to be offered that was not permitted to be offered under the public report to be renewed for a renewal public report or permit application.

(3) Five hundred dollars (\$500) plus ten dollars (\$10) for each time-share interest to be offered under the amended public report for which a fee has not previously been paid for an amended public report application.

(4) Five hundred dollars (\$500) for a conditional public report application.

(c) Fees collected by the commissioner under authority of this chapter shall be deposited into the Real Estate Fund pursuant to Chapter 6 (commencing with Section 10450) of Part 1. Fees received by the commissioner pursuant to this article shall be deemed earned upon receipt. A fee is not refundable unless the commissioner determines that it was paid as a result of mistake or inadvertency. This section shall remain in effect unless it is superseded pursuant to Section 10266 or subdivision (a) of Section 10266.5, whichever is applicable.

SEC. 37. Section 11301 of the Business and Professions Code is amended to read:

11301. (a) There is hereby created within the Department of Consumer Affairs a Bureau of Real Estate Appraisers to administer and enforce this part.

(b) Notwithstanding any other law, the powers and duties of the bureau, as set forth in this part, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this part were scheduled to be repealed as of January 1, 2026.

SEC. 38. Section 11302 of the Business and Professions Code is amended to read:

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) "Affiliate" means any entity that controls, is controlled by, or is under common control with another entity.

(b) "Appraisal" means the act or process of developing an opinion of value for real property.

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of the person's business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) of Part 1 and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

(c) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(d) (1) "Appraisal management company" means any person or entity that satisfies all of the following conditions:

(A) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates.

(B) Provides those services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating those transactions into securitizations.

(C) Within a given 12 calendar month period oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in two or more states, as described in Section 11345.5.

(2) An appraisal management company does not include a department or division of an entity that provides appraisal management services only to that entity.

(3) An appraisal management company that is a subsidiary of an insured depository institution and regulated by a federal financial institution is not required to register with the bureau.

(e) "Appraisal management services" means one or more of the following:

(1) Recruiting, selecting, and retaining appraisers.

(2) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments.

(3) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed.

(4) Reviewing and verifying the work of appraisers.

(f) "Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company. Appraisers on an appraisal management company's "appraiser panel" under this part include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the appraisal management company to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this part if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

(g) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(h) "Bureau" means the Bureau of Real Estate Appraisers.

(i) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(j) "Controlling person" means one or more of the following:

(1) An officer or director of an appraisal management company, or an individual who holds a 10 percent or greater ownership interest in an appraisal management company.

(2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.

(3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

(k) "Course provider" means a person or entity that provides educational courses related to professional appraisal practice.

(l) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.

(m) "Creditor" means:

(1) A person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(2) A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension for transactions secured by a dwelling.

(n) "Department" means the Department of Consumer Affairs.

(o) "Director" or "chief" means the Chief of the Bureau of Real Estate Appraisers.

(p) "Dwelling" means:

(1) A residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobilehome, and trailer, if it is used as a residence.

(2) A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home is not a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year

or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this section.

(q) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Home Loan Bank System, National Credit Union Administration, and any other agency determined by the director to have jurisdiction over transactions subject to this part.

(r) "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in Section 1813 of Title 12 of the United States Code and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.

(s) "Federally related real estate appraisal activity" means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing an appraisal as a result of that activity.

(t) "Federally related transaction" means any real estate-related financial transaction that a federal financial institutions regulatory agency engages in, contracts for or regulates and that requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

(u) "License" means any license, certificate, permit, registration, or other means issued by the bureau authorizing the person to whom it is issued to act pursuant to this part within this state.

(v) "Licensure" means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.

(w) "Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an appraisal management company.

(x) "Secondary mortgage participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

(y) "State licensed real estate appraiser" is a person who is issued and holds a current valid license under this part.

(z) "Uniform Standards of Professional Appraisal Practice" are the standards of professional appraisal practice established by the Appraisal Foundation.

SEC. 39. Section 11310.1 of the Business and Professions Code is amended to read:

11310.1. Protection of the public shall be the highest priority for the Bureau of Real Estate Appraisers in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 40. Section 11313 of the Business and Professions Code is amended to read:

11313. The bureau is under the supervision and control of the Director of Consumer Affairs. The duty of enforcing and administering this part is vested in the chief, and the chief is responsible to the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted by the former Director of the Bureau of Real Estate Appraisers shall continue to apply to the bureau and its licensees.

SEC. 41. Section 11314 of the Business and Professions Code is amended to read:

11314. The bureau is required to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest and comply in all respects with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73 and any subsequent amendments thereto. Requirements for each level of licensure shall, at a minimum, meet the criteria established by the Appraiser Qualification Board of the Appraisal Foundation. The bureau may additionally include in its regulations requirements for the registration of appraisal management companies consistent with this part.

SEC. 42. Section 11315 of the Business and Professions Code is amended to read:

- 11315.** (a) The director may issue to a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation, a citation that may contain an order to pay an administrative fine assessed by the bureau if the person or entity is in violation of this part or any regulations adopted to carry out its purposes.
- (b) A citation shall be written and describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.
- (c) If appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation.
- (d) (1) If appropriate, the citation may contain an order to enroll in and successfully complete additional basic or continuing education courses.
- (2) When a citation imposes an education course or courses, the completion of the course or courses by the licensee shall be subject to the following conditions:
- (A) The citation imposing the education requirement may specify the specific course content, the number of hours to be completed, the date by which the course is to be completed, and the method by which satisfaction of the order is to be reported to the bureau.
- (B) An education course imposed by citation may not be credited towards the licensee's continuing education requirements pursuant to Section 11360.
- (C) Only courses accredited by the bureau shall be accepted for purposes of fulfilling education imposed by citation.
- (D) Any failure to satisfactorily complete or timely report an education course to the bureau by the date specified in the citation shall result in the automatic suspension of the licensee's real estate appraiser license as of that date. A license shall not be renewed prior to the satisfactory completion of an education course specified in the citation, unless the citation provides for a completion date that is subsequent to the license renewal date.
- (E) Reinstatement of a license suspended pursuant to subparagraph (D) shall be made only if all of the following events occur:
- (i) Satisfactory verification of the completion of the education course or courses imposed by the citation.
- (ii) Completion and filing of a reinstatement application.
- (iii) Payment of all applicable fees, fines, or penalties.
- (e) In no event shall an administrative fine assessed by the bureau by citation or order exceed ten thousand dollars (\$10,000) per violation. In assessing a fine, the bureau shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the person who committed the violation, and the history of previous violations.
- (f) A citation or fine assessment issued pursuant to a citation shall inform the person cited that, if the person desires a hearing to contest the finding of a violation, the person is required to request a hearing by written notice to the bureau within 30 days of the date of issuance of the citation or assessment. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The citation or fine assessment shall also inform the person cited that failure to respond to the citation or fine assessment shall result in any order or administrative fine imposed becoming final, and that any order or administrative fine shall constitute an enforceable civil judgment in addition to any other penalty or remedy available pursuant to law.
- (g) (1) If a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation fails to pay a fine, penalty, or required installment payment on the fine or penalty by the date when it is due, the director shall charge the person interest and a penalty of 10 percent of the fine or installment payment amount. Interest shall be charged at the pooled money investment rate.
- (2) Failure of a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation to pay a fine or required installment payment on the fine within 30 days of the date ordered in the citation, unless the citation is being appealed, shall be cause for additional disciplinary action by the bureau.
- (3) If a citation is not contested and a fine or fine payment is not paid within 30 days of the date ordered in the citation or other order of the director, the full amount of the unpaid balance of the assessed fine shall be added to any fee for renewal of a

license. A license shall not be renewed prior to payment of the renewal fee and fine.

(4) The director may order the full amount of any fine to be immediately due and payable if any payment due on a fine is not received by the bureau within 30 days of its due date.

(5) Any fine, or interest thereon, not paid within 30 days of a final citation or order shall constitute a valid and enforceable civil judgment.

(6) A certified copy of the final order, or the citation with certification by the bureau that no request for hearing was received within 30 days of the date of issuance of the citation, shall be conclusive proof of the civil judgment, its terms, and its validity.

(h) A citation may be issued without the assessment of an administrative fine.

(i) Any administrative fine or penalty imposed pursuant to this section shall be in addition to any other criminal or civil penalty provided for by law.

(j) Administrative fines collected pursuant to this section shall be deposited in the Real Estate Appraisers Regulation Fund.

SEC. 43. Section 11320.5 of the Business and Professions Code is amended to read:

11320.5. No person or entity shall act in the capacity of an appraisal management company or represent itself to the public as an appraisal management company, either in its advertising or through its business name, without a certificate of registration from the bureau.

SEC. 44. Section 11326 of the Business and Professions Code is amended to read:

11326. (a) The county assessor shall, upon request, disclose information, furnish abstracts, copies of maps, construction permits, notices of completion, sales confirmation, and permit access to all records in the county assessor's office or branch offices, to the Bureau of Real Estate Appraisers when it is conducting an investigation related to professional conduct of appraisers.

(b) Whenever the assessor discloses information, furnishes abstracts, and all of the above and permits access to records to the Bureau of Real Estate Appraisers, the bureau shall reimburse the assessor for any reasonable cost incurred as a result thereof.

SEC. 45. Section 11328 of the Business and Professions Code is amended to read:

11328. To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that requires a license, that licensee, applicant, or person shall, upon the request of the director, submit copies of the engagement letters, appraisals, or any work product that is addressed by the Uniform Standards of Professional Appraisal Practice, and all supporting documentation and data to the bureau. This material shall be confidential in accordance with the confidentiality provisions of the Uniform Standards of Professional Appraisal Practice.

SEC. 46. Section 11328.1 of the Business and Professions Code is amended to read:

11328.1. If the director has a reasonable belief that a registrant, or person or entity acting in a capacity that requires a certificate of registration, has engaged in activities prohibited under this part, the director may submit a written request to the registrant, person, or entity, requesting copies of written material related to the director's investigation. Any registrant, person, or entity receiving a written request from the director for information related to an investigation of prohibited activities shall submit that information to the director or the bureau within a reasonable period of time, which shall be specified by the director in the written request. Any material submitted shall be kept confidential by the director and the bureau.

SEC. 47. Section 11343 of the Business and Professions Code is amended to read:

11343. (a) Each real estate appraiser license applicant and each controlling person of each applicant for registration as an appraisal management company shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice via LiveScan for the purposes of allowing the bureau to obtain information as to the existence and content of a record of state or federal convictions and state or federal arrests and also 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 the person's own recognizance pending trial or appeal. If the applicant is located out of state, then the applicant shall include the applicant's fingerprint card with the application package and the bureau shall submit the fingerprint cards to the Department of Justice for the purposes of this subdivision.

(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 bureau.

(c) The Department of Justice shall provide a response to the bureau pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(d) The bureau shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a).

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

SEC. 48. Section 11345 of the Business and Professions Code is amended to read:

11345. The director shall adopt regulations governing the process and procedure of applying for registration as an appraisal management company. Applications for a certificate of registration shall require, at a minimum, all of the following:

(a) The name of the person or entity seeking registration.

(b) The business address and telephone number of the person or entity seeking registration.

(c) If the applicant is not a person or entity domiciled in this state, the name and contact number of a person or entity acting as agent for service of process in this state, along with an irrevocable consent to service of process in favor of the bureau.

(d) The name, address, and contact information for each controlling person of the applicant who has operational authority to direct the management of, and establish policies for, the applicant.

SEC. 49. Section 11345.05 of the Business and Professions Code is amended to read:

11345.05. (a) A registrant shall notify the bureau within 10 business days, on a form developed by the bureau, of any additions, deletions, or changes in the names, addresses, and contact information for the individuals listed on its application.

(b) A registrant shall correct information on file with the bureau within 10 business days of discovering an error in that information, and shall not be subject to disciplinary action by the director or the bureau for incorrect information the registrant corrects within 10 business days of its discovery as being inaccurate.

SEC. 50. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the bureau, in writing, within 10 days of the date the individual has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

SEC. 51. Section 11345.3 of the Business and Professions Code is amended to read:

11345.3. All appraisal management companies shall do all of the following:

(a) Ensure that all contracted appraisal panel members possess all required licenses and certificates from the bureau.

(b) Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite license, education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type.

(c) Direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Practice.

(d) Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company conducts its appraisal management services in accordance with the requirements of Section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.

(e) Engage appraisal panel members with an engagement letter that shall include terms of payment.

(f) Appraisal management companies shall maintain all of the following records for each service request:

(1) Date of receipt of the request.

(2) Name of the person from whom the request was received.

(3) Name of the client for whom the request was made, if different from the name of the person from whom the request was received.

(4) The appraiser or appraisers assigned to perform the requested service.

(5) Date of delivery of the appraisal product to the client.

(6) Client contract.

(7) Engagement letter.

(8) The appraisal report.

SEC. 52. Section 11400 of the Business and Professions Code is amended to read:

11400. (a) Initial application fees shall be paid to the bureau at the time of application.

(b) All fees shall be paid by cashier's check, certified check, or money order. In addition, the bureau may accept personal checks or credit cards for the payment of fees. All fees shall be deemed earned by the bureau upon receipt and are refundable at the discretion of the director.

SEC. 53. Section 11401 of the Business and Professions Code is amended to read:

11401. (a) The fee to take an examination or reexamination for a license shall be set at an amount not to exceed the cost to the bureau as determined by competitive bid.

(b) The director may provide that the applicant pay the fee directly to the examination provider.

SEC. 54. Section 11406 of the Business and Professions Code is amended to read:

11406. (a) The director shall by regulation establish fees for approval of basic education and continuing education courses or their equivalent, or for the evaluation of petitions of applicants based upon claims of equivalency pursuant to Section 11340. The fees established by regulation shall be sufficient to cover the costs incurred by the bureau in processing applications for course approvals and petitions for equivalency.

(b) The director shall by regulation establish fees for approval of courses of study required to be taken by applicants for licenses. The fees established by regulation shall be sufficient to cover the costs incurred by the bureau in processing applications for course approvals and petitions for equivalency.

SEC. 55. Section 11406.5 of the Business and Professions Code is amended to read:

11406.5. The director shall, by regulation, establish the fees to be imposed on appraisal management companies. The fees shall be sufficient to cover the costs incurred by the bureau in administering the changes to this part made by the act adding this section.

SEC. 56. Section 11407 of the Business and Professions Code is amended to read:

11407. The director may by regulation prescribe fees lower than the maximum fees established by this chapter if the director determines that lower fees will be adequate to offset the costs incurred by the bureau and the committee in the administration of this part.

SEC. 57. Section 11408 of the Business and Professions Code is amended to read:

11408. (a) An applicant for licensure shall not be eligible to have a license issued unless the applicant notifies the bureau within one year of successful completion of the examination.

(b) Every applicant or licensee shall pay federal registry fees and state registry processing fees to the state as required as part of licensing fees.

SEC. 58. Section 11409 of the Business and Professions Code is amended to read:

11409. (a) Except as otherwise provided by law, any order issued in resolution of a disciplinary proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, registrant, applicant for a certificate of registration, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation found to have committed a violation or violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to exceed the reasonable costs of investigation, enforcement, and prosecution of the case.

(b) When an order for recovery of costs is made and payment is not made within 30 days of the date directed in the bureau's decision, the order for recovery shall constitute a valid and enforceable civil judgment. This judgment shall be in addition to, and not in place of, any other criminal or civil penalties provided for by law.

(c) (1) Failure of a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, registrant, applicant for a certificate of registration, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation to pay recovery costs or make a recovery cost payment within 30 days of the date ordered, shall result in disciplinary action by the bureau. If the person fails to pay recovery costs within 30 days, that person shall pay interest and a penalty of 10 percent of the recovery costs or payment amount. Interest shall be charged at the pooled money investment rate.

(2) If recovery costs are not paid as ordered, the full amount of the assessed fine shall be added to any fee for renewal of a license or a certificate of registration. A license or a certificate of registration shall not be renewed prior to payment of the renewal fee and recovery costs.

(3) The director may order the full amount of any recovery costs to be immediately due and payable if any payment on the recovery costs, or portion thereof, is not received within 30 days of its due date.

(4) Any recovery costs, or interest thereon, not paid within 30 days of a final order shall constitute a valid and enforceable civil judgment.

(d) A certified copy of the bureau's decision shall be conclusive proof of the validity of the order and its terms.

(e) The bureau shall not renew or reinstate the license of any licensee or the certificate of registration of any registrant who has failed to pay all of the costs ordered under this section.

(f) Nothing in this section shall preclude the bureau from including the recovery of the costs of investigation and enforcement of a case in any default decision or stipulated settlement.

SEC. 59. Section 11422 of the Business and Professions Code is amended to read:

11422. The bureau shall, on or before February 1, 1994, and at least annually thereafter, transmit to the appraisal subcommittee specified in subdivision (g) of Section 11302 a roster of persons licensed pursuant to this part.

SEC. 60. Sections 6.1 and 6.2 of this bill incorporate amendments to Section 10151 of the Business and Professions Code proposed by both this bill and Senate Bill 263. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 10151 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 263, in which case Section 6 of this bill shall not become operative.