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**SB-1348 Escrow agents: controlled substances.** (2021-2022)

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**Senate Bill No. 1348**

**CHAPTER 846**

An act to amend Section 17414.1 of the Financial Code, relating to financial institutions.

[ Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1348, Bradford. Escrow agents: controlled substances.

Existing law, the Escrow Law, prohibits a person who has been convicted of or pleaded nolo contendere to certain crimes within the past 10 years, or who has been held liable in any civil action by final judgment or any administrative judgment by any public agency within the past 7 years, of any of those provisions from serving in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, in this state. Among the disqualifying offenses referenced above is an offense involving controlled substances.

This bill would strike an offense involving controlled substances from the list of disqualifying offenses and would correct an obsolete cross-reference in those provisions.

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

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

**SECTION 1.** Section 17414.1 of the Financial Code is amended to read:

**17414.1.** (a) Any person who has been convicted of or pleaded nolo contendere to any crime specified in subdivision (b) within the past 10 years, or has been held liable in any civil action by final judgment or any administrative judgment by any public agency within the past 7 years, of any of the provisions specified in subdivision (b) shall not serve in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, in this state. This subdivision shall not apply to any person whose office, employment, ownership interest, or other participation in the business of a licensed escrow agent commenced prior to January 1, 1992.

(b) (1) Subdivision (a) applies to criminal convictions of, pleas of nolo contendere to, or civil or administrative judgments entered for, any of the following offenses:

(A) Offenses specified in Chapter 10 (commencing with Section 1320) of Division 1.1.

(B) Offenses specified in Article 4 (commencing with Section 5300) of Chapter 1 of Division 2.

(C) Offenses specified in Article 8 (commencing with Section 14750) of Chapter 4 of Division 5.

(D) Offenses specified in Chapter 3 (commencing with Section 17400), and Chapter 7 (commencing with Section 17700) of Division 6.

(E) Offenses specified in Chapter 6 (commencing with Section 18435) of Division 7.

(F) Offenses specified in provisions of the laws of the United States added or amended by the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73).

(G) Offenses involving robbery, burglary, theft, embezzlement, fraud, fraudulent conversion or misappropriation of property, forgery, bookmaking, receiving stolen property, counterfeiting, extortion, checks, credit cards, or computer violations specified in Section 502 of the Penal Code.

(2) For the purpose of this subdivision, an offense does not include a conviction for which the person has obtained a certificate of rehabilitation from a court of competent jurisdiction under Section 1203.4 or 4852.13 of the Penal Code or a similar certificate of rehabilitation obtained in a foreign jurisdiction.

(c) On and after January 1, 1992, any person who seeks employment by, or an ownership interest in, or other participation in the business of a licensed escrow agent shall, as a condition to obtaining that employment, interest, or participation, authorize Fidelity Corporation and the commissioner, or both, to have access to that person's state and federal summary criminal history information, as defined in Section 11105 of the Penal Code, for purposes of determining whether the person has a prior conviction of, or pleaded nolo contendere to, a criminal offense specified in subdivision (b).

(d) On or before the 10th day of employment, each escrow agent shall obtain and forward to the commissioner the fingerprint images and related information of persons seeking employment by an escrow agent. The fingerprint images and related information may be submitted by certified mail, return receipt requested, or transmitted electronically, using the process established by the Department of Justice for requesting state and federal summary criminal history information. Persons who have previously submitted fingerprints or fingerprint images and related information to the commissioner may so notify the commissioner and need not submit additional fingerprint images and related information unless requested to do so by the commissioner. The commissioner shall provide written notice to both the escrow agent and to the person if any of the information received pursuant to this division shows that the person's employment would be in violation of Section 17414.1, and the escrow agent shall deny the person the employment. A person whose employment is in violation of subdivision (a) shall not have access to trust funds or sign checks or otherwise perform any activities related to the processing of escrow transactions after the licensed escrow agent has been notified by the commissioner that the person's employment is in violation of subdivision (a).

(e) Any state and federal summary criminal history information obtained pursuant to this section shall be kept confidential and a recipient shall not disclose the contents other than for the purpose of determining eligibility for employment by, acquisition of an ownership interest in, or other participation in, the business of a licensed escrow agent.

(f) The authority granted by this section to the commissioner or to Fidelity Corporation shall be in addition to any other authority granted by law to obtain information about any person who is subject to this division. This section shall not be construed to limit any authority of the commissioner or Fidelity Corporation otherwise provided by law.

(g) Any person who knowingly violates subdivision (a) or (d), including, but not limited to, any escrow agent who permits employment by, an ownership interest in, or other participation in, the business of an escrow agent in violation of subdivision (a) or (d) shall, upon conviction, be subject to punishment pursuant to Section 17700. Any person who knows of a violation of subdivision (a) or (d) shall immediately report the violation in writing to the commissioner. A person shall not be civilly liable for reporting as required under this subdivision unless the information provided in the report is false, and the person providing false information does so with knowledge and malice. The reports filed under this section, including the identity of the person making the filing, shall remain confidential pursuant to state law.

(h) This section shall not be construed to permit the reinstatement of any person barred by the commissioner pursuant to Section 17423 nor to prohibit the commissioner from bringing any action pursuant to Section 17423.

(i) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.