

Highlights of 2017 State Chaptered Legislation

The legislation noted below is a compendium of many, but not necessarily all, of the chaptered bills that may affect or be of interest to DBO licensees. The full text of these bills may be found at: <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>

I. BANKS AND CREDIT UNIONS

AB 307 (Maienschein)

Allocation of principal or income.

[AB 307, Chapter 577, Statutes 2017](#)

(Probate Code)

This bill revises how a trustee allocates money to beneficiaries of an estate or trust as either principal or income.

AB 384 (Irwin)

The Qualified ABLE Program: tax-advantaged savings accounts.

[AB 384, Chapter 470, Statutes 2017](#)

(Welfare and Institutions Code)

AB 384 further conforms state law to federal law by allowing non-California residents who become disabled, as specified, before the age of 26 to open a tax-free savings account under the California Achieving a Better Life Experience (CalABLE) Program. The bill requires the California ABLE Act Board to market the CalABLE Program to residents of the United States, instead of only California residents, to the extent that funds are available to do so. In addition, this bill makes a clarification related to Medi-Cal eligibility. The purpose of the bill is to ensure that individuals with specified disabilities are eligible for necessary public benefits.

AB 611 (Dababneh)

Mandated reporters of suspected financial abuse of an elder or dependent adult: powers of attorney.

[AB 611, Chapter 408, Statutes 2017](#)

(Welfare and Institutions Code)

This bill authorizes a financial institution's officer or employee to refuse to honor a power of attorney if the officer or employee makes a report that the elder or dependent adult ("principal") may be subject to financial abuse by the person attempting to exercise the power of attorney ("attorney-in-fact").

AB 1460 (Dababneh)

Licensees: fiduciary funds.

[AB 1460, Chapter 69, Statutes 2017](#)

(Insurance Code)

This bill allows a licensed insurance agent or broker to maintain his or her fiduciary account, required by law, in any state or federally chartered bank or savings and loan association, rather than only in depository institutions located in California. The bill requires the fiduciary funds to be maintained in a trust account in the financial institution. The bill also requires all administrative actions involving such trusts accounts to be subject to the jurisdiction of the Insurance Commissioner. The bill requires all suits involving such trust accounts to be subject to the jurisdiction of California state courts and federal courts located in California.

SB 266 (Dodd)

Armed service members: consumer loans.

[AB 1460, Chapter 69, Statutes 2017](#)

(Insurance Code)

This bill updates cross references in the Banking Law, California Credit Union Law, California Deferred Deposit Transaction Law, California Financing Law, and the Military and Veterans Code to reflect recent changes made to the federal Military Lending Act.

II. SECURITIES AND BROKER-DEALERS

AB 97 (Ting)

Budget Act of 2017.

[AB 97, Chapter 14, Statutes 2017](#)

The Budget Act of 2017 includes provisions that require the Department to submit an annual report on the Broker-Dealer Investment Advisor (BDIA) Program to the Department of Finance and to the Legislature on January 10 with the release of the Governor's Budget each year, beginning in 2016. The budget bill requires the BDIA report to include the number of positions authorized and filled, the number and share of BDIA licensees examined, results and outcomes of those examinations, and estimated staffing levels required to achieve targeted examination cycles for these licensees. Identical language has been included in previous Budget Acts beginning with SB 852 Chapter 25, Statutes of 2014.

In addition, and new this year, the Legislative Analyst's Office (LAO) published the Supplemental Report of the 2017-18 Budget Act, which includes additional reporting requirements. Specifically, the LAO requires the Department to provide a report on the BDIA Program to the Department of Finance, Legislative Analyst's Office, and the relevant budget subcommittees of both houses of the Legislature with the release of the Governor's budget in January 2018, 2019, and 2020. The LAO requires the report to include additional information related to increasing efficiency and cost-effectiveness of oversight over BDIA licensees.

III. MORTGAGE LENDERS

AB 1139 (Reyes)

Real property: transfer fees: notices.

[AB 1139, Chapter 148, Statutes 2017](#)

(Civil Code)

This bill requires anyone seeking payment of a property transfer fee to record notice that the existence of the fee may make it more difficult for the property owner or a prospective buyer to obtain financing unless the transfer fee provides a "direct benefit" to the property in question.

SB 173 (Dodd)

Real estate: Bureau of Real Estate

[SB 173, Chapter 828, Statutes 2017](#)

(Business and Professions Code, Government Code)

SB 173 recasts, as of July 1, 2018, the Bureau of Real Estate, which licenses real estate brokers and salespersons and is currently within the Department of Consumer Affairs, as the Department of Real Estate within the Business, Consumer Services, and Housing Agency.

IV. FINANCE LENDERS

AB 1636 (Aguiar-Curry)

California Financing Law: California Deferred Deposit Transaction Law.

[AB 1636, Chapter 329, Statutes 2017](#)

(Financial Code)

AB 1636 allows the Department of Business Oversight to impose penalties when licensed finance lenders file required reports late. This bill also makes the annual reports payday lenders file with the Commissioner of Business Oversight public documents, except for the balance sheet contained in the reports, and gives the Commissioner discretion to require payday lenders to report additional information in those reports.

SB 266 (Dodd)

Armed service members: consumer loans.

[SB 266, Chapter 514, Statutes 2017](#)

(Financial Code, Military and Veterans Code)

This bill updates cross references in the Banking Law, California Credit Union Law, California Deferred Deposit Transaction Law, California Financing Law, and the Military and Veterans Code to reflect recent changes made to the federal Military Lending Act.

V. PACE PROGRAM ADMINISTRATORS

AB 1284 (Dababneh)

California Financing Law: Property Assessed Clean Energy program: program administrators.

[AB 1284, Chapter 475, Statutes 2017](#)

Urgency Clause, effective 10/04/17

(Financial Code, Business and Professions Code)

AB 1284 requires Property Assessed Clean Energy (PACE) program administrators to be licensed by the Department of Business Oversight (Department) and provides state oversight of contractors and third parties who solicit property owners. The bill requires PACE solicitors and PACE solicitor agents to enroll with program administrators and meet certain standards. The bill authorizes the Department to bring enforcement actions against PACE program administrators, PACE solicitors, and PACE solicitor agents. In addition, this bill prohibits a program administrator from approving an assessment contract unless the program administrator determines the property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment. This bill renames the California Finance Lenders Law as the California Financing Law as of October 4, 2017. The licensing provision takes effect January 1, 2019. However, other provisions have different operative dates.

SB 242 (Skinner)

Property Assessed Clean Energy program: program administrator.

[SB 242, Chapter 484, Statutes 2017](#)

(Streets and Highways Code)

This bill establishes certain consumer protections related to Property Assessed Clean Energy (PACE) assessments, including (1) requiring an oral confirmation of assessment terms; (2) requiring the translation of agreements, (3) requiring two reports annually to local agencies, and (4) restricting various additional acts for the purpose of protecting consumers of PACE financing.

VI. STUDENT LOAN SERVICERS

AB 461 (Muratsuchi)

Personal income taxes: exclusion: forgiven student loan debt.

[AB 461, Chapter 525, Statutes 2017](#)

Urgency clause, effective 10/06/17

(Revenue and Taxation Code)

Existing law provides, under the Personal Income Tax Law, various exclusions from gross income in determining tax liability, including an exclusion for the amount of student loan indebtedness repaid or canceled pursuant to a specified federal law, relating to income-based repayment.

This bill excludes from state gross income, for taxable years beginning on or after January 1, 2017, and before January 1, 2022, student loan debt that is cancelled under Income-Contingent Repayment plans for public service and other employees administered by the United States Secretary of Education. This law became operative in October 2017.

AB 1178 (Calderon)

Personal income taxes: exclusion: forgiven student loan debt.

[AB 1178, Chapter 448, Statutes 2017](#)

(Education Code)

This bill requires, commencing with the 2018-19 award year, that each higher education institution, except for the California Community Colleges, to the extent possible, send an individualized letter to their students regarding information on their student loans.