

Highlights of 2014 Chaptered State Legislation

The legislation noted below is a compendium of 2014 chaptered bills (not all) that may affect or be of interest to licensees of the Department of Business Oversight. The full text of these bills may be found at: <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>

I. LEGISLATION AFFECTING LENDING, SERVICING OR BROKERING OF RESIDENTIAL MORTGAGE LOANS

AB 1700 (Medina)

Reverse mortgages: notifications

[AB 1700, Chapter 854, Statutes 2014](#)

(Civil Code)

This bill (1) requires lenders to wait seven days before accepting a final reverse mortgage application or assessing any fees from a borrower, (2) makes minor changes to the consumer notice, which alerts prospective borrowers to legal requirements, (3) replaces the written checklist of issues to discuss with a loan counselor with a reverse mortgage worksheet guide, and (4) makes changes to the reverse mortgage worksheet guide, including using more easy-to-understand plain language and providing the information in the form of questions to encourage potential borrowers to consider their personal circumstances in determining the suitability of a reverse mortgage.

AB 1730 (Wagner)

Mortgage loan modification

[AB 1730, Chapter 457, Statutes 2014](#)

(Civil Code)

Under current law, it is a misdemeanor to request advance compensation in exchange for negotiating a residential mortgage loan modification. This law was established to protect consumers from scammers who would take a consumer's money without completing all services they were contracted to perform. This bill (1) provides for civil penalties; (2) authorizes courts to issue additional civil penalties for senior and disabled victims and provide the reinstatement of money or property lost; and (3) creates a four-year statute of limitations.

SB 1459 (Committee on Banking and Financial Institutions)

Mortgage loan originators: educational requirements

[SB 1459, Chapter 123, Statutes 2014](#)

(Financial Code)

This bill (1) expands the selection of tests from which the Department of Business Oversight (Department) may choose to accept for the licensure of mortgage loan originators; and (2) requires additional California-specific pre-licensing education for

mortgage loan originator applicants and additional continuing education for mortgage loan originator licensees. The bill's purpose is to broaden the Department's choice regarding future mortgage loan originator tests and help ensure mortgage loan originators are knowledgeable about California mortgage-related laws. This bill originated from a Department legislative proposal.

II. LEGISLATION AFFECTING STATE-LICENSED BANKS AND CREDIT UNIONS

AB 1770 (Dababneh)

Real property liens: equity lines of credit: suspend and close
[AB 1770, Chapter 206, Statutes 2014](#)
(Civil Code)

This bill establishes a process for a borrower to notify a lender to suspend extending credit on a home equity line of credit (HELOC), upon the request of the borrower, so that the borrower may pay off the loan and have the property securing the loan released, in order to facilitate another transaction such as a refinance or property sale. This bill provides that when a borrower notifies the lender to suspend extending credit on the HELOC, and the lender provides the amount due as identified in the demand payoff statement, the lender must accept the payoff amount as the total payment on the loan, and release the property. This law will become operative on July 1, 2015.

AB 1858 (Perea)

Commercial law: secured transactions
[AB 1858, Chapter 284, Statutes 2014](#)
(Commercial Code)

This bill clarifies that the name of an individual debtor is sufficiently provided on the financing statement submitted for personal property transactions if (1) the debtor's name is indicated on an unexpired driver's license or identification card issued by the Department of Motor Vehicles, if the person does not have such identifications, the debtor's name or the surname and their first name is provided on the financing statement.

AB 2252 (Perez)

Child support payments: electronic fund transfer: qualifying accounts
[AB 2252, Chapter 180, Statutes 2014](#)
(Family Code)

This bill requires child support payments that are directly deposited to a recipient's chosen account to be deposited only to a qualifying account and defines "qualifying account." The bill prohibits an entity that issues a prepaid card or maintains or manages a prepaid card account from accepting or facilitating the direct deposit of child support

payments to a prepaid card account that does not meet a qualifying account's requirements.

AB 2274 (Gordon)

The California Debt and Investment Advisory Commission

[AB 2274, Chapter 181, Statutes 2014](#)

(Government Code)

This bill modifies the reporting and notice requirements an issuer of debt is required to make to the California Debt and Investment Advisory Commission before a proposed sale of debt issue and after a sale of debt issue. This bill also would expand the Commission's authorization to charge fees relating to the principal amount of a debt issue to include charging a fee to a lender, and would remove the authority of the Commission to borrow money required to meet the Commission's necessary expenses.

AB 2298 (Rodriguez)

Local Agency Security Program – Reporting Requirements

[AB 2298, Chapter 214, Statutes 2014](#)

(Government Code)

This bill allows financial institutions that hold local agency funds (e.g. city, county, school district, etc.) to transmit their required weekly report of deposited funds via email or other electronic means approved by the Commissioner of the Department of Business Oversight. Current law requires that these reports be submitted weekly by U.S. mail or delivered in person.

III. LEGISLATION AFFECTING CALIFORNIA FINANCE LENDERS LAW

SB 1181 (Correa)

Finance lenders

[SB 1181, Chapter 68, Statutes 2014](#)

(Financial Code)

The bill (1) increases the term of commercial bridge loans from one to three years; and (2) exempts from the California Finance Lenders law specified investments made by venture capital companies in operating companies.

IV. LEGISLATION AFFECTING THE CORPORATIONS CODE

AB 129 (Dickinson)

Lawful money

[AB 129, Chapter 74, Statutes 2014](#)

(Corporations Code)

This bill repeals Section 107 of the Corporations Code, which could deem various forms of alternative currency, such as digital currency, points, coupons, or other objects of monetary value, a violation of state law when those currencies are used. Current law bans the issuance or circulation of anything but “lawful money of the United States.” The bill’s purpose is to allow for modern methods of payment.

SB 896 (Correa)

Finance lenders: nonprofit organizations: zero-interest, low-cost loans: exemptions

[SB 896, Chapter 190, Statutes 2014](#)

(Financial Code)

This bill (1) establishes an exemption from licensure under the California Finance Lenders Law (“California Finance Lenders Law”) for nonprofit lenders making unsecured loans from \$250 to \$2500; (2) establishes requirements for loan terms and lending by these nonprofit lenders; and (3) requires the Department to publish an annual report on the exceptions granted under this law.

III. LEGISLATION AFFECTING RELATED SUBJECT MATTERS

A. MONEY TRANSMITTERS

AB 2209 (Dickinson)

Money Transmission Act

[AB 2209, Chapter 499, Statutes 2014](#)

(Financial Code)

This bill amends the Money Transmission Act to: (1) exclude from licensure the agents of entities who provide goods or services and are owed payment (agent of payees); (2) provide money transmitter licensees with alternative and more effective means of providing electronic receipts; (3) align the Money Transmission Act with federal law; (4) require out-of-state credit unions offering money transmission services in California to be licensed under the Money Transmission Act or have a branch or office in California; (5) expand audit reporting requirements; and (6) clarify authority of the Commissioner of the Department of Business Oversight.

B. SECURITIES

AB 296 (Wagner)

Trusts

[AB 296, Chapter 867, Statutes 2014](#)

(Probate Code)

This bill provides that an allocation to principal of money received in total or partial liquidation of an entity does not include a net short-term capital gain distribution from a regulated investment company or a real estate investment trust. This bill contains other related provisions and an urgency clause.

AB 2289 (Daly)

Business filings

[AB 2289, Chapter 782, Statutes 2014](#)

(Corporations Code and Financial Code)

AB 2289 authorizes the Department of Business Oversight (Department) to accept electronic filings for license, permit and registration applications under certain laws administered by the Department. This bill also amends the Franchise Investment Law, relating to applications for franchise registration and the subsequent renewals of those registrations, by (1) extending the application review period from 15 business days to 30 business days, and (2) clarifying that the 30-business day review period does not begin until the franchisor files a complete application, as defined.

C. HUMAN RESOURCES-RELATED BILLS

AB 1443 (Skinner)

Harassment: unpaid interns

[AB 1443, Chapter 302, Statutes 2014](#)

(Government Code)

Current law makes provisions of the California Fair Employment and Housing Act applicable to employers, labor organizations, employment agencies and specified training programs. This bill provides that discrimination against any person in the selection, termination, training or other terms or treatment of that person in an unpaid internship or the harassment of an unpaid intern or volunteer, on account of the factors described above is an unlawful employment practice.

AB 2053 (Gonzalez)

Employment discrimination or harassment: education and training: abusive conduct

[AB 2053, Chapter 306, Statutes 2014](#)

(Government Code)

Current law requires every employer to ensure a workplace free of sexual harassment by implementing certain minimum requirements, including posting sexual harassment information posters at the workplace, and obtaining and making available an information sheet on sexual harassment. This bill additionally requires that the above-described training and education include prevention of abusive conduct, as defined.

D. MISCELLANEOUS

AB 1710 (Dickinson)

Personal information: privacy

[AB 1710, Chapter 855, Statutes 2014](#)

(Civil Code)

AB 1710 amends California's data breach law to provide that if the source of a data breach offers identity theft prevention services, the services must be offered at no cost to the affected person for not less than 12 months, under specified circumstances. In addition, AB 1710 prohibits people and businesses from publically posting or selling an individual's Social Security number.

AB 2742 (Committee on Banking and Finance)

Business: corporations and financial services.

[AB 2742, Chapter 344, Statutes 2014](#)

(Multiple Codes)

This bill (1) makes technical changes to the California Business Profession Code, Civil Code, Corporations Code and Financial Code administered by the Department of Business Oversight (Department); and (2) clarifies material that licensees are required to file with the Commissioner of the Department. The purpose of this bill is to update various California code sections with the proper cross-reference changes made in state and federal laws.

SB 1051 (Galgiani)

Buyer's Choice Act

[SB 1051, Chapter 198, Statutes 2014](#)

(Civil Code)

This bill deletes the sunset date of the Buyer's Choice Act. The Act prohibits a seller from requiring a buyer to use a designated title or escrow company when purchasing a home at a foreclosure sale and requires a seller to notify a buyer about the prohibition. The bill's purpose is to provide protection to consumers during foreclosure sales.

AB 2024 (Bonilla)

Professional fiduciaries

[AB 2024, Chapter 336, Statutes 2014](#)

(Business and Professions Code)

This bill (1) authorizes the Professional Fiduciaries Bureau (Bureau) to establish a retired status license, (2) prohibits a professional fiduciary from practicing with a retired or cancelled license, (3) provides that an expired professional fiduciary license, that is not renewed within three years, shall not be renewed, restored or reinstated, (4) clarifies the Bureau's authority to investigate any professional fiduciary with a retired, inactive, canceled or suspended license, and (5) makes technical, updating and conforming changes.

AB 2317 (Maienschein)

Execution: sale of property

[AB 2317, Chapter 183, Statutes 2014](#)

(Code of Civil Procedure)

This bill provides that a judgment debtor's equitable right of redemption is not affected by the statutory provision that specifies the sale of property to satisfy a judgment is absolute. Specifically, this bill provides that although a sale of property to satisfy a judgment is absolute and may not be set aside for any reason, except as provided, this does not affect, limit or eliminate a judgment debtor's equitable right of redemption.

AB 2365 (Perez)

Contracts: unlawful contracts

[AB 2365, Chapter 308, Statutes 2014](#)

(Civil Code)

This bill prohibits a contract or proposed contract for the sale or lease of consumer goods or services from including a provision that waives the consumer's right to make any statement regarding the seller, lessor or its employees or agents, or concerning the goods or services. This bill makes it unlawful to threaten or to seek to enforce a contract provision made unlawful under this bill, or to otherwise penalize a consumer for making any statement protected under this bill, and provides civil penalties for violations.

SB 1171 (Hueso)

Real property transactions: agents: obligations

[SB 1171, Chapter 200, Statutes 2014](#)

(Civil Code)

Current law requires the listing or selling agent to disclose to the buyer and seller whether he or she is acting as the buyer's agent exclusively, the seller's agent exclusively, or as a dual agent representing both the buyer and the seller. This bill extends these disclosure requirements to include transactions involving commercial real property, as defined, including a leasehold interest.