

# Highlights of 2018 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>

## **AB 38 (Stone)**

Student loan servicers: licensing and regulation: Student Loan Servicing Act.

[AB 38, Chapter 379, Statutes of 2018](#)

(Financial Code)

This bill amends the Student Loan Servicing Act to clarify who is covered under the Student Loan Servicing Act, and to streamline the process for licensing and regulating student loan servicing in California. Among other things, the bill exempts guarantee agencies and debt collectors, as defined.

## **AB 237 (Gonzalez Fletcher)**

Pilot Program for Increased Access to Responsible Small Dollar Loans.

[AB 237, Chapter 1016, Statutes of 2018](#)

(Financial Code)

AB 237 increases, from \$2,500 to \$7,500, the permissible loan amount under the Pilot Program for Increased Access to Responsible Small Dollar Loans (Pilot Program) and expands the use of “finders” – persons who for compensation match borrowers with lenders – to loans of up to \$7,500. This bill also: (1) requires the Commissioner to examine each finder whose services were used by a lender at least once every 24 months, (2) requires Pilot Program lenders to annually provide specific data on each finder whose services were used, (3) requires Pilot Program lenders to reduce the interest rate on loans made to borrowers who obtain subsequent loans and meet certain requirements, and (4) makes technical changes to the Pilot Program.

## **AB 1526 (Kalra)**

Debt collection.

[AB 1536, Chapter 247, Statutes of 2018](#)

(Civil Code, Code of Civil Procedure)

The Department does not regulate debt collectors or debt buyers under the California Fair Debt Buying Practices Act or the and California Fair Debt Collecting Practices Act. However, the Department regulates several creditors that may act as debt collectors including banks and credit unions, as well as lenders regulated under the California Financing Law, and the California Deferred Deposit Transaction Law.

This bill prohibits a debt collector from taking a legal action against a consumer to collect on debt that is beyond the statute of limitations and no longer legally collectible, commonly known as time-barred debt. Also, the bill requires a debt collector to provide the debtor with specific disclosures when attempting to collect on time-barred debt. Lastly, this bill prohibits the renewal of the statute of limitations on a time-barred debt in cases where the statute of limitations has passed, and a debtor makes a payment on the debt, unless the debtor signs a new contract to start a new period of the debt.

### **AB 1547 (Quirk-Silva)**

State finance: financing authorities.

[AB 1547, Chapter 645, Statutes of 2018](#)

[\(Urgency Clause, effective 9/21/18\)](#)

(Government Code, Health & Safety Code, Revenue & Taxation Code)

This bill abolishes the California Industrial Development Financing Authority Commission within the State Treasurer's Office and transfers full responsibility over the state's Industrial Development Bond Program to the California Debt Limit Allocation Committee, also within the State Treasurer's Office. This bill also makes various changes to programs under the State Treasurer's Office.

### **AB 2063 (Aguiar-Curry)**

California Financing Law: PACE program administrators.

[AB 2063, Chapter 813, Statutes of 2018](#)

(Financial Code, Streets & Highways Code)

AB 2063 prohibits a Property Assessed Clean Energy (PACE) program administrator from executing a PACE assessment contract, and a contractor from beginning any work for a home improvement, before the property owner's ability to pay is determined. This bill revises the factors program administrators must use to determine a property owner's ability to pay for PACE financing, including bankruptcies, late mortgage payments, and household income.

### **AB 2198 (Oberholte)**

State government: FI\$Cal: transparency.

[AB 2198, Chapter 186, Statutes of 2018](#)

(Government Code)

AB 2198 requires the online publicly available Financial Information System for California website, which currently includes General Fund and federal fund expenditure data, to additionally include special fund expenditure data.

### **AB 2658 (Calderon)**

Secretary of the Government Operations Agency: working group: blockchain technology.

[AB 2658, Chapter 875, Statutes of 2018](#)

(Government Code)

This bill defines the term "blockchain" for limited purposes in the Government Code. This bill also requires the Government Operations Agency to appoint a working group to study blockchain technology.

### **AB 2862 (Limón)**

Credit unions: investments and exemptions.

[AB 2862, Chapter 267, Statutes of 2018](#)

(Financial Code)

This bill allows credit unions to purchase whole loans and obligations, including those of nonmembers, authorizes a credit union to purchase an investment to fund an employee benefit plan without the Department's pre-approval, allows credit unions to establish charitable donations accounts without the Department's approval, exempts credit unions from the Escrow Law, and repeals the Savings Capital Structure Policy requirements.

### **AB 2884 (Irwin)**

Real estate.

[AB 2884, Chapter 285, Statutes of 2018](#)

(Business and Professions Code)

This bill updates the Real Estate Law to provide greater clarity regarding classifications of real estate licensees by adding several definitions to the Real Estate Law. This bill revises license revocation procedures of the Department of Real Estate and amends the circumstances under which Department of Real Estate licensees must provide employment-related notifications to Department of Real Estate. This bill also recognizes the use of online record keeping and allows the transmission of licenses or contracts via electronic means.

### **AB 3212 (Irwin)**

Service member protections.

[AB 3212, Chapter 555, Statutes of 2018](#)

(Military and Veterans Code)

This bill expands the service members who are entitled to certain protections in the Military and Veterans Code when on active military duty. The bill also expands the protections available to active service members regarding financial and other obligations including student loans.

### **AB 3229 (Burke)**

California Right to Financial Privacy Act.

[AB 3229, Chapter 288, Statutes of 2018](#)

(Government Code)

This bill allows a special agent with the California Department of Justice to request a customer's financial information from a financial institution without a search warrant, subpoena, or the customer's consent, if a crime report has been filed that involves financial fraud.

### **SB 465 (Jackson)**

Property Assessed Clean Energy Program: wildfire safety improvements.

[SB 465, Chapter 837, Statutes of 2018](#)

(Financial Code, Government Code, Streets & Highways Code)

SB 465 expands the Property Assessed Clean Energy (PACE) program by allowing PACE financing in high risk fire hazard zones for wildfire safety improvements. The bill imposes the same procedures for PACE financing of wildfire safety improvements for local agencies in high fire hazard zones, as defined, as for PACE financing of seismic retrofits and electric vehicle charging infrastructure. This bill provides a January 1, 2029 sunset date.

### **SB 818 (Beall)**

Mortgages and deeds of trust: foreclosure.

[SB 818, Chapter 404, Statutes of 2018](#)

(Civil Code)

SB 818 restores borrower protections that expired on December 31, 2017, due to sunset provisions in the 2012 Homeowner Bill of Rights. The reinstated protections require servicers to provide additional

disclosures to borrowers, prohibit loan modification application fees, restore an appeals process for loan modification denials, and enhance consumers' ability to bring an injunctive action against a mortgage servicer to prevent a foreclosure sale if the servicer violates certain Homeowner Bill of Rights protections.

### **SB 826 (Jackson)**

Corporations: boards of directors.

[SB 826, Chapter 954, Statutes of 2018](#)

(Corporations Code)

This bill requires publicly held corporations whose principal executive offices are located in California to have a minimum number of women on their board of directors, as specified. Also, this bill requires the California Secretary of State to report on corporations' compliance and gives the Secretary of State authority to impose fines for violations, as specified.

### **SB 838 (Hertzberg)**

Corporate records: articles of incorporation: blockchain technology.

[SB 838, Chapter 889, Statutes of 2018](#)

(Corporations Code)

This bill amends the Corporations Code to specify that privately-held corporations can use blockchain technology to maintain corporate records and data, provided certain conditions are met. This bill allows a corporation to issue and track ownership and transfer of its securities through blockchain technology instead of traditional stock certificates.

### **SB 1055 (Bradford)**

Banks and credit unions: savings promotions.

[SB 1055, Chapter 847, Statutes of 2018](#)

(Financial Code)

This bill authorizes California state-chartered banks and credit unions to sponsor or participate in "savings promotions" that offer depositors a chance to win prizes, if certain conditions are met.

### **SB 1087 (Roth)**

PACE program: program administrators.

[SB 1087, Chapter 798, Statutes of 2018](#)

(Financial Code, Streets & Highways Code)

This bill makes various changes to provisions in the California Financing Law related to the oversight of Property Assessed Clean Energy (PACE) program administrators and PACE contractors. Among other things, the bill 1) removes the confidentiality requirement for certain agreements between the Commissioner of Business Oversight and PACE program administrators and PACE contractors; and 2) requires the Department to maintain on its website the identities of enrolled and barred PACE contractors.

### **SB 1121 (Dodd)**

California Consumer Privacy Act of 2018.

[SB 1121, Chapter 735, Statutes of 2018](#)

(Civil Code)

Beginning January 1, 2020, the California Consumer Privacy Act of 2018, [AB 375, Chau, Chapter 55, Statutes of 2018](#), will grant consumers the right to access their personal information that is collected by a business, the right to delete it, the right to know what personal information is collected, the right to know whether and what personal information is being sold or disclosed, the right to stop a business from selling their information, and the right to equal service and price.

Although, AB 375 is not effective until January 1, 2020, SB 1121 exempts certain businesses, particularly financial institutions, from complying with these privacy protections, except for the private right of action resulting from a data breach. SB 1121 exempts businesses which collect, process, sell, or disclose personal information pursuant to the federal Gramm-Leach-Bliley Act and its implementing regulations, or the California Financial Privacy Act [SB 1 (Speier, Chapter 241, Statutes of 2003)]. SB 1121 also makes minor and technical changes to the Consumer Privacy Act of 2018.

### **SB 1139 (Morrell)**

Real property liens: equity lines of credit: suspend and close.

[SB 1139, Chapter 90, Statutes of 2018](#)

(Civil Code)

This bill removes the July 1, 2019, sunset date and extend indefinitely the current process for a borrower to notify a lender to suspend and close a home equity line of credit.

### **SB 1183 (Morrell)**

Mortgages: deeds of trust: successors in interest.

[SB 1183, Chapter 136, Statutes of 2018](#)

(Civil Code)

SB 1183 clarifies that certain disclosures to survivors of mortgage loan borrowers do not apply to survivors of reverse mortgage loan borrowers.

### **SB 1201 (Jackson)**

Contracts: consumer protection: residential mortgage lending.

[SB 1201, Chapter 356, Statutes of 2018](#)

(Financial Code)

SB 1201 requires a financial organization that negotiates the modification of a mortgage loan primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean to deliver to the borrower a written disclosure of the modified terms of the loan in the same language as the negotiation. Also, this bill provides a California Residential Mortgage Lending Act licensee the right to an administrative hearing to challenge a license revocation for a failure to file a financial statement. Translated residential mortgage loan forms can be found here: [http://www.dbo.ca.gov/forms/Translated\\_Forms.asp](http://www.dbo.ca.gov/forms/Translated_Forms.asp)

## **SB 1235 (Glazer)**

Commercial financing: disclosures.

[SB 1235, Chapter 1011, Statutes of 2018](#)

(Financial Code)

This bill requires providers of commercial financing for small businesses to provide recipients with certain disclosures for transactions up to \$500,000. The bill defines commercial financing as an accounts receivable purchase transaction (including merchant cash advances), asset-based lending, a commercial loan of \$5,000 or more, a commercial open-end credit plan, or a lease financing transaction. This bill grants the Commissioner of Business Oversight examination and enforcement authority if any providers licensed under the California Financing Law violate the disclosure requirements in this bill. The bill requires the Commissioner to adopt regulations governing the disclosures. Providers are not required to comply with the disclosure requirements until the Department's regulations are adopted and become effective.

## **SB 1361 (Bradford)**

Department of Business Oversight: administration.

[SB 1361, Chapter 699, Statutes of 2018](#)

(Financial Code)

SB 1361 requires the Department to make public all orders that impose civil penalties on financial institutions. This bill also requires the Department's licensees to establish and maintain an email designated for receiving communications and documents from the Commissioner of Business Oversight. The bill requires licensees to notify the Commissioner before changing the designated email, and would impose a \$50 per-day fine, not to exceed \$1,000 in total, on a licensee that fails to provide the Commissioner with a new designated email.

## **SB 1412 (Bradford)**

Applicants for employment: criminal history.

[SB 1412, Chapter 987, Statutes of 2018](#)

(Labor Code)

This bill prohibits employers from seeking, or using as a consideration in employment decisions, an applicant's criminal record that did not result in a publicly available conviction. Specifically, this bill prohibits employers from seeking out or considering the applicant's history of arrest, detention, diversion program participation, and sealed or dismissed convictions. The bill also prohibits employers from seeking or considering an applicant's history of arrest, detention, diversion, and supervision in connection with juvenile court proceedings. This bill provides several exceptions to these prohibitions, including situations where federal or state law requires employers to consider such information and deny employment on that basis. The bill specifically states that its provisions do not prohibit an employer from seeking or receiving an applicant's criminal history report obtained pursuant to procedures in federal, state, or local law.

## **SIGNIFICANT FEDERAL LEGISLATION**

### **S 2155 (Crapo)**

[Public Law No: 115-174 \(05/24/18\)](#)

Economic Growth, Regulatory Relief, and Consumer Protection Act

Generally, the Act does five things: (1) provides exemptions to certain mortgage lending rules; (2) provides regulatory relief to community banks; (3) enhances consumer protections in certain areas, such as credit reporting; (4) relaxes the regulations that some banks face based on the rules set by the Dodd-Frank Act; and (5) provides regulatory relief to certain securities regulations to encourage capital formation.

Of particular significance to the Department, Section 106, titled “Eliminating barriers to jobs for loan originators,” provides temporary authority to operate as a state-licensed mortgage loan originator (MLO) of another state to those individuals who are: (1) a “registered” MLO, i.e., employed by a depository institution ; or (2) a state-licensed MLO of another state who becomes employed by a mortgage company in California, or any other state (the application state). This temporary authority allows the transitioning MLO to continue originating loans while completing state-specific MLO licensure requirements, such as education and testing.