

PROPOSED CHANGES UNDER THE
CALIFORNIA FINANCE LENDERS LAW
CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT
MODIFIED: SEPTEMBER 4, 2015

(Additions shown by double underline and deletions shown by double strikethrough)

1. Adopt Section 1422.3 to read:

§ 1422.3. Certain consumer lenders and brokers not exempt from licensure.

~~(a) For purposes of subdivision (a) of Section 22050 of the Code,~~

~~(1) no bank holding company or savings and loan holding company,~~

~~(2) no subsidiary of a bank, trust company, savings and loan association or credit union, which subsidiary is doing business under the laws of any state or the United States relating to its parent financial institution,~~

~~(3) no subsidiary of a bank holding company and~~

~~(4) no subsidiary of a savings and loan holding company, that engages in the business of making consumer loans in this state, shall be exempt from licensure unless such person is expressly identified as exempt in Section 22050(a) of the Code or exempted by the Code from licensure under a provision other than Section 22050(a).~~

~~(b) For purposes of subsection (a)(1) and (a)(3), the terms "bank holding company" and "subsidiary" mean a bank holding company or subsidiary, respectively, as defined in Chapter 17 (commencing with Section 1841) of Title 12 of the United States Code. For purposes of subsection (a)(1) and (a)(4), the terms "savings and loan holding company" and "subsidiary" mean a savings and loan holding company or subsidiary, respectively, as defined in Section 10 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1467a). For purposes of subsection (a)(2), the terms "bank," "trust company," "savings and loan association" and "credit union" shall have the definitions ascribed to such terms in Chapter 1 of Division 1 of the Code, and the term "subsidiary" means a subsidiary as defined in Title 10, Section 10.170 of the California~~

~~Code of Regulations. For avoidance of doubt, the term “bank” shall be deemed to include a national bank, as such term is defined in Section 189 of the Code, and the term “savings and loan association” shall be deemed to include a Federal savings association or Federal savings bank that is chartered under Section 5 of the Home Owners’ Loan Act of 1933, as amended (12 U.S.C. Section 1464).~~

(a) A nondepository lender or broker that engages in the business of making or brokering consumer loans in this state is not exempt from licensure under subdivision (a) of section 22050 of the Financial Code unless that nondepository lender or broker is a bank, trust company, savings and loan association, insurance premium finance agency, credit union, small business investment company, community advantage lender, California business and industrial development corporation, or pawnbroker.

(b) For purposes of this section, “nondepository lender or broker” means a finance lender as defined in section 22009 of the Financial Code or a broker as defined in section 22004 of the Financial Code, and the finance lender or broker is also (1) a bank holding company or subsidiary of a bank holding company, as defined in chapter 17 of title 12 of the United States Code (commencing with section 1841), (2) a savings and loan holding company or a subsidiary of a savings and loan holding company, as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. § 1467a), or (3) a subsidiary of a bank, trust company, savings association or credit union, where the terms “bank,” “trust company,” “savings association” and “credit union” have the definitions ascribed to such terms in chapter 1 of division 1 of the Financial Code, and the term “subsidiary” means a subsidiary as defined in title 10, section 10.170 of the California Code of Regulations. For avoidance of doubt, the term “bank” includes a national bank, as such term is defined in section 189 of the Financial Code, and the term “savings association” includes a federal savings association or federal savings

bank that is chartered under section 5 of the Home Owners' Loan Act (12 U.S.C. § 1464).

(c) This section shall become operative 180 days after the effective date of this section.

Note: Authority cited: Sections 22100 and 22150, Financial Code. Reference: Section 22050, Sections 22004, 22009, and 22050, Financial Code.

2. Adopt Section 1950.122.4.2 to read:

§ 1950.122.4.2. Certain ~~consumer~~ residential mortgage lenders and servicers not exempt from licensure.

~~(a) For purposes of subdivision (c) of Section 50002 of the Code,~~
~~(1) no bank holding company or savings and loan holding company,~~
~~(2) no subsidiary of a bank, trust company, savings and loan association or credit union, which subsidiary is doing business under the laws of any state or the United States relating to its parent financial institution,~~
~~(3) no subsidiary of a bank holding company and~~
~~(4) no subsidiary of a savings and loan holding company, that engages in the business of making consumer loans in this state, shall be exempt from licensure unless such person is expressly identified as exempt in Section 50002(c) of the Code or exempted by the Code from licensure under a provision other than Section 50002(c).~~

~~(b) For purposes of subsection (a)(1) and (a)(3), the terms "bank holding company" and "subsidiary" mean a bank holding company or subsidiary, respectively, as defined in Chapter 17 (commencing with Section 1841) of Title 12 of the United States Code. For purposes of subsection (a)(1) and (a)(4), the terms "savings and loan holding company" and "subsidiary" mean a savings and loan holding company or~~

~~subsidiary, respectively, as defined in Section 10 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1467a). For purposes of subsection (a)(2), the terms "bank," "trust company," "savings and loan association" and "credit union" shall have the definitions ascribed to such terms in Chapter 1 of Division 1 of the Code, and the term "subsidiary" means a subsidiary as defined in Title 10, Section 10.170 of the California Code of Regulations. For avoidance of doubt, the term "bank" shall be deemed to include a national bank, as such term is defined in Section 189 of the Code, and the term "savings and loan association" shall be deemed to include a Federal savings association or Federal savings bank that is chartered under Section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. Section 1464).~~

(a) A nondepository lender or servicer that engages in the business of mortgage lending or servicing in this state is not exempt from licensure under subdivision (c)(1), (2), or (3) of section 50002 of the Financial Code unless that nondepository lender or servicer is a bank, trust company, insurance company, industrial loan company, savings and loan association, savings bank, or credit union.

(b) For purposes of this section, "nondepository lender or servicer" means a lender as defined in subdivision (m) of section 50003 of the Financial Code or a mortgage servicer as defined in subdivision (q) of section 50003 of the Financial Code, and the lender or mortgage servicer is also (1) a bank holding company or subsidiary of a bank holding company, as defined in chapter 17 of title 12 of the United States Code (commencing with section 1841), (2) a savings and loan holding company or a subsidiary of a savings and loan holding company, as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. § 1467a), or (3) a subsidiary of a bank, trust company, savings association or credit union, where the terms "bank," "trust company," "savings association" and "credit union" have the definitions ascribed to such terms in chapter 1

of division 1 of the Financial Code, and the term “subsidiary” means a subsidiary as defined in title 10, section 10.170 of the California Code of Regulations. For avoidance of doubt, the term “bank” includes a national bank, as such term is defined in section 189 of the Financial Code, and the term “savings association” includes a federal savings association or federal savings bank that is chartered under section 5 of the Home Owners’ Loan Act (12 U.S.C. § 1464).

(c) This section shall become operative 180 days after the effective date of this section.

Note: Authority cited: Section 50304, Financial Code. Reference: ~~Section 50002,~~ Sections 50002 and 50003, Financial Code.