

Highlights of 2020 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 licensees of the Department of Financial Protection and Innovation (DFPI). The full text of these bills may be found at:

<http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>

Department of Financial Protection and Innovation

AB 1864 (Limón)

Financial institutions: regulation: Department of Financial Protection and Innovation.

[AB 1864, Chapter 157, Statutes of 2020](#)

(Financial Code, Government Code)

AB 1864 establishes the Department of Financial Protection and Innovation, codifies existing authority from federal law, and enacts the California Consumer Financial Protection Law.

Specifically, this bill renames the Commissioner as the Commissioner of Financial Protection and Innovation and ensures that all authority formerly vested in the Commissioner and the Department of Business Oversight is transferred to the Commissioner of Financial Protection and the Department of Financial Protection and Innovation (DFPI). This bill also includes DFPI in the list of specific agencies exempt from law that prohibits state agencies from employing in-house counsel to act on behalf of the agency.

This bill codifies the authority granted to a state regulator pursuant to Section 5552 of Title 12 of the United States Code with respect to an entity subject to oversight by the commissioner.

AB 1864 also enacts the California Consumer Financial Protection Law (CCFPL). This division does not apply to a licensee of another state agency other than the DFPI, to the extent that licensee is acting under the authority of that agency's license. Furthermore, the division does not apply to a specified list of DFPI licensees.

The CCFPL makes it unlawful for a covered person or service provider to engage in a variety of prohibited acts including, but not limited to, engaging in activity that would be unlawful, unfair, deceptive, or abusive or that violates any consumer financial law.

The law requires the Department to regulate various consumer financial products and services. It grants the Department the power to bring administrative and civil actions, issue subpoenas, promulgate regulations, hold hearings, issue publications, conduct investigations, and implement outreach and education programs. The Department has

the authority to impose civil and monetary penalties for violations of the CCFPL. These administrative actions must be done in accordance with the Administrative Procedure Act.

Furthermore, the CCFPL gives the Department the ability to promulgate regulations to require certain covered persons to register with the Department or requires regulations to be promulgated concerning certain covered persons if the Department takes two enforcement actions against persons in the same industry. Four years after a group is required to be registered, the Legislature must conduct a hearing to determine the future of the registration category.

The Department is also required to appear annually in front of the Legislature and submit an annual report detailing enforcement actions and activities conducted under the CCFPL, and other information about the Financial Technology Innovation Office.

AB 107 (Committee on Budget)

State government.

[AB 107, Chapter 264, Statutes of 2020](#)

AB 107 is a state budget bill that makes a number of changes to a variety of statutes and departments. For this Department, AB 107 changes the Department's name from the Department of Business Oversight to the Department of Financial Protection and Innovation and ensures the authorities vested in DBO transition to DFPI. It also makes a number of changes to the names of internal funds.

Major Legislation

AB 376 (Stone)

Student loan servicing.

[AB 376, Chapter 154, Statutes of 2020](#)

(Civil Code, Financial Code)

AB 376 requires California student loan servicers to adhere to new requirements and student loan borrower protections. The bill also creates the Student Loan Ombudsman under the Department to compile and analyze data on the number of student loan borrower complaints, inform the public about problems concerning borrowers, and submit an annual report to legislative committees, among other things. The bill also allows the Department to monitor and analyze consumer risks related to the student loan industry.

AB 499 (Mayes)

Personal information: Social Security numbers: state agencies.

[AB 499, Chapter 155, Statutes of 2020](#)

(Government Code)

Effective January 1, 2023, this bill prohibits state agencies from sending via U.S. mail documents with Social Security numbers, unless the number is truncated to its last four digits, with certain exceptions. This bill requires agencies that mail Social Security numbers, on or before September 1, 2021, to report to the Legislature. If a state agency cannot comply with these requirements, the bill requires that agency to submit an annual confidential corrective action plan to the Legislature.

AB 979 (Holden)

Corporations: boards of directors: underrepresented communities.

[AB 979, Chapter 316, Statutes of 2020](#)

(Corporations Code)

This bill requires publicly held corporations in California to have at least one board director from underrepresented communities by the end of 2021, and minimum numbers based on board size by December 31, 2022. Underrepresented communities are defined as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, Alaska Native, or gay, lesbian, bisexual, or transgender. Among other things, the bill allows the Secretary of State to impose fines for violations.

AB 1525 (Jones-Sawyer)

Cannabis: financial institutions.

[AB 1525, Chapter 270, Statutes of 2020](#)

(Business and Professions Code)

This bill creates a safe harbor under California law for financial institutions, accountants, and licensed armored cars that provide services to cannabis licensees. The bill also allows state or local authorities or agencies, or joint powers authorities, upon a cannabis licensee's written request, to share certain information with financial institutions designated by the licensee.

AB 1551 (Arambula)

Property assessments: requirements and disclosures.

[AB 1551, Chapter 156, Statutes of 2020](#)

(Financial Code, Streets and Highways Code)

This bill prohibits Property Assessed Clean Energy (PACE) program administrators under the jurisdiction of the Department from including prepayment penalties in PACE assessment contracts or from executing a contract if the property is subject to a reverse mortgage. The bill requires the program administrator to deliver to the property owner a printed copy of existing disclosures, unless the property owner opts for an electronic copy.

AB 2196 (Gonzalez)

Pilot Program for Increased Access to Responsible Small Dollar Loans.

[AB 2196, Chapter 174, Statutes of 2020](#)

(Financial Code)

This bill extends until January 1, 2028, the sunset date for the Pilot Program for Increased Access to Responsible Small Dollar Loans under the California Financing Law.

AB 2471 (Maienschein)

Senior citizens: rescission of contracts.

[AB 2471, Chapter 158, Statutes of 2020](#)

(Business and Professions Code, Civil Code, Streets and Highways Code)

This bill extends the period of time to cancel certain home solicitation contracts (such as Property Assessed Clean Energy (PACE) program contracts) or offers from three days to five days if the buyer or property owner is a senior citizen age 65 or older, for contracts entered into, or offers to purchase conveyed, on or after January 1, 2021.

AB 2524 (Wicks)

Check Sellers, Bill Payers and Proraters Law: out-of-state activities.

[AB 2524, Chapter 159, Statutes of 2020](#)

(Financial Code)

This bill repeals two provisions in existing law that currently 1) prohibit the Commissioner from issuing a check seller, bill payer or prorater license to a corporation not organized under California laws that engages in selling checks, drafts, or money orders, receiving money for the purpose of paying bills, invoices, or accounts on behalf of another, or accepting money to forward in payment of utility bills, and 2) prohibit a licensee and its agents from conducting those activities outside of the state.

AB 2559 (Bauer-Kahan)

California Financing Law: enforcement and penalties.

[AB 2559, Chapter 160, Statutes of 2020](#)

(Financial Code)

This bill allows the Department to seek ancillary relief administratively for victims harmed by licensed or unlicensed persons who have violated the California Financing Law. Ancillary relief allows the Department to address consumer harms by ordering bad actors to pay refunds, restitution, disgorgement, or damages. The bill also creates a simplified process for the Department to enforce an administrative penalty or ancillary relief order in superior court if the person who has violated the California Financing Law does not comply with the Commissioner's orders and avoids having to litigate the issues again in Superior Court.

AB 3088 (Chiu)

Tenancy: rental payment default: mortgage forbearance: state of emergency: COVID-19.

[AB 3088, Chapter 37, Statutes of 2020](#)

(Civil Code, Code of Civil Procedure)

This bill provides protections for tenants and landlords financially impacted by the COVID-19 pandemic. Among other things, the bill outlines a process for a tenant to file a COVID-19-related financial distress declaration, which prohibits landlords from evicting the tenant for nonpayment of rent before February 1, 2021. The bill extends protections under the Homeowner Bill of Rights to small landlords (non-owner occupied, 1-4 units) until January 1, 2023. Between the date of this bill's signing and April 1, 2021, if a mortgage servicer denies a forbearance request from a borrower, the bill requires the servicer to explain the specific reasons for denying forbearance. If the reason is curable, like an incomplete application, the bill requires the servicer to provide 21 days for the borrower to cure the issue. Borrowers can seek redress in court for material violations of these new provisions by a servicer.

AB 3254 (Limón)

Contracts: translations.

[AB 3254, Chapter 161, Statutes of 2020](#)

(Civil Code)

This bill closes a loophole in current law by requiring a person engaged in a trade or business to provide a co-signer a copy of a contract in the language that it was negotiated

in (Spanish, Chinese, Tagalog, Vietnamese, or Korean), unless the co-signer provides his or her own interpreter.

AB 3364 (Committee on Judiciary)

Judiciary omnibus.

[AB 3364, Chapter 36, Statutes of 2020](#)

(Civil Code, among others)

This bill makes various changes, including clarifying existing law, deleting obsolete references, extending, and indefinitely extending certain existing provisions. Among other things, the bill reinstates provisions that reached their sunset date and were repealed in 2020 and requires the Department of Financial Protection and Innovation and the Department of Real Estate to post translations of a foreclosure notice that mortgagees, trustees, beneficiaries, and authorized agents could use to post and send to borrowers and residents.

SB 522 (Hertzberg)

Business entities: filings.

[SB 522, Chapter 361, Statutes of 2020](#)

(Corporations Code)

This bill creates a single standard for naming requirements for business entities. The bill prohibits names likely to mislead the public and requires names to be distinguishable in the records. The bill also removes exceptions in the law allowing businesses to adopt a name substantially the same as an existing one, under certain conditions.

SB 898 (Wieckowski)

Enforcement of judgments: exemptions.

[SB 898, Chapter 81, Statutes of 2020](#)

(Code of Civil Procedure)

Existing law identifies various types of property of a judgment debtor that are exempt from the enforcement of a money judgment. Existing law provides that exempt property may be claimed and such property without making a claim is not subject to any procedure for enforcement of a money judgment. These general exemptions are available to a debtor in a federal bankruptcy case. Existing law requires the Judicial Council to, every three years, adjust the amount of the exemptions applicable to exempt property based on the change in the annual California Consumer Price Index for All Urban Consumers. Existing law, the Golden State Scholarshare Trust Act, establishes the Golden State Scholarshare College Savings Trust for the purpose of administering funds contributed by participants as a means of paying for postsecondary education costs.

This bill increases the statutory amounts of various exemptions to reflect the amounts of the exemptions as adjusted by the Judicial Council effective April 1, 2019. The bill provides that money held in an account owned by the judgment debtor and established pursuant to the Golden State Scholarshare Trust Act is exempt for the purposes described above, subject to specified limits.

SB 908 (Wieckowski)

Debt collectors: licensing and regulation: Debt Collection Licensing Act.

[SB 908, Chapter 163, Statutes of 2020](#)

(Civil Code, Financial Code)

The bill requires the Department to license, regulate, and examine debt collectors. The bill requires licensed debt collectors to maintain a surety bond, pay an annual assessment fee to cover administration, file an annual report with the Department, and submit to periodic exams by the Department. The bill also establishes an advisory committee within the Department to advise the Commissioner on debt collection, proposed fee schedules, and proposed regulations.

SB 1079 (Skinner)

Residential property: foreclosure.

[SB 1079, Chapter 202, Statutes of 2020](#)

(Civil Code)

This bill, until January 1, 2026, requires a notice of sale to contain a specified notice to a tenant regarding the tenant's potential right to purchase a property containing from one to four single-family residences. This bill imposes various other additional disclosures. This bill, until January 1, 2026, for purposes of the exercise of a power of sale, prohibits a trustee from bundling properties for the purpose of sale. This bill, until January 1, 2026, prescribes an alternative process in connection with a trustee's sale of property under a power of sale contained in a deed of trust or mortgage on real property containing one to four residential units.

SB 1148 (Jones)

Mortgages and deeds of trust: foreclosure.

[SB 1148, Chapter 203, Statutes of 2020](#)

(Civil Code)

The bill allows a mortgage trustee to advertise a foreclosure notice of sale during a nonjudicial foreclosure in a newspaper in the public notice district where the property is located, instead of only in the city. This bill also prohibits a court from charging a trustee a fee for filing a declaration of nonmonetary status.

SB 1157 (Bradford)

Tenancy: credit reporting: lower income households.

[SB 1157, Chapter 204, Statutes of 2020](#)

(Civil Code)

Beginning on July 1, 2021, and until July 1, 2025, this bill requires any landlord of an assisted housing development, with certain exceptions, to offer tenants the option of having the tenant's rental payment information reported to at least one consumer reporting agency (i.e. Equifax, TransUnion, Experian). The bill allows tenants to opt into or opt out of rent reporting at any time, subject to certain requirements. The bill also allows landlords to charge a monthly fee of \$10 or actual costs of rent reporting services, whichever is less, for providing rent reporting services.