



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

NOTICE OF FOURTH MODIFICATIONS TO PROPOSED REGULATIONS UNDER THE CALIFORNIA FINANCING LAW

PRO 02/17

Applications and Filings Through NMLS and Licensure of PACE Program Administrators

To Interested Persons:

On October 25, 2019, the Commissioner of Financial Protection and Innovation (Commissioner) published a Notice of Rulemaking Action to adopt and amend various regulations under the California Financing Law to implement AB 1284 (Dababneh, Chapter 475, Statutes of 2017), which renamed the “California Finance Lenders Law” the “California Financing Law” effective October 4, 2017, and which required a program administrator that administers a Property Assessed Clean Energy (PACE) program on behalf of a public agency to be licensed by the Commissioner under the California Financing Law. The regulatory changes also proposed transitioning all licensees under the California Financing Law onto the Nationwide Multistate Licensing System and Registry (NMLS), the national licensing database for providers of financial services and products.

After consideration of public comments in response to the initial proposed text on October 25, 2019, and modifications to the proposed text on May 27, 2020, September 2, 2020, and November 18, 2020, the Commissioner is proposing additional modifications. A copy of the proposed revisions is being made available to the public in accordance with the requirements of Government Code section 11346.8(c). The text showing modifications is attached. The additions to the rules as proposed through November 18, 2020 are shown in single underline, and the deletions to the rules as proposed through November 18, 2020 are shown in single strike-out. The fourth modifications to the text proposed by this notice are shown by double underlining of additions and double strike-out of deletions. The public may submit comments on the proposed changes, as described more fully below.

DESCRIPTION OF CHANGES

Section 1422.5

The proposed amendments to rule 1422.5 (1) limit the owners required to be disclosed on the organizational chart to entities and individuals owning or controlling 10 percent or more of the outstanding interests or equity securities of the applicant; (2) provide that upon request, the applicant must provide an organizational chart identifying subsidiaries and affiliated entities; (3) provide that the organizational chart need only identify the managerial positions of the specified owners upon request; and (4) provide that organizational documents, including amendments, resolutions, and a list of name changes, are only required upon request. The proposed amendments further provide that licensees transitioning onto NMLS need not provide the following documentation, where the documentation is already on file with the Commissioner, unless otherwise requested by the Commissioner: (1) copies of Fictitious Business Name Statements bearing the seal of the county clerk; (2) fingerprints for individuals identified in the “Direct Owners and Executive Officers,” “Indirect Owners,” and “Qualifying Individuals” sections of MU1, unless fingerprints have not previously been submitted for an individual; (3) financial statements; (4) the Customer Authorization of Disclosure of Financial Records form; (5) a business plan, unless the plan previously submitted to the Commissioner is no longer accurate; (6) an organizational chart, unless the organizational chart previously submitted to the Commissioner is no longer accurate; (7) a management chart, unless the management chart previously submitted to the Commissioner is no longer accurate; (8) a certificate of qualification or good standing; (9) a partnership agreement; and (10) an Execution Section from the paper license application.

Section 1425

The proposed amendments to rule 1425 recognize that books and records may be maintained at a location by being digitally accessible at the location.

Section 1550

The proposed amendments remove the requirement that NMLS numbers be included on all advertising for licensees transitioning onto NMLS, and instead restore subdivision (b) to the existing text of the rule.

Section 1620.06

The proposed amendments to rule 1620.06 make grammatical and cross-reference corrections and clarifications, including renumbering the provisions regarding signature verification.

Section 1620.07

The proposed amendment to rule 1620.07 makes a grammatical correction.

Section 1620.08

The proposed amendments to rule 1620.08 provide that the complaint process is not applicable to matters in active litigation. The proposed amendments also provide that a program administrator must make the complaint process available in the language used to communicate during the oral confirmation and removes the requirement that the process be made available in the language used to solicit the assessment contract.

Section 1620.22

The proposed amendments clarify that the rental agreement for considering rental income from the property owner's principal residence must be written.

THE HEARING FILE

The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available on the Department of Financial Protection and Innovation's website at www.dfpi.ca.gov, and from the Legal Division of the Department of Financial Protection and Innovation. As required by the Administrative Procedure Act, the Legal Division maintains a hearing file containing all the information upon which the proposal is based. The rulemaking file is available for public inspection during regular business hours. Comments or inquiries concerning these proposed regulation changes may be directed to Colleen Monahan at (916) 576-4952.

15-DAY COMMENT PERIOD

Any interested person may submit written comments regarding these second modifications by written communication addressed as follows:

Commissioner of Financial Protection and Innovation
Attn: Colleen Monahan, Senior Counsel, Legal Division
2101 Arena Boulevard
Sacramento, CA 95834

Comments must be received by January 13, 2021. Written comments may also be sent by electronic mail to regulations@dfpi.ca.gov with a copy to colleen.monahan@dfpi.ca.gov.

The proposed changes to the Commissioner's rules in the text accompanying this notice are not yet effective and will not be effective until approved by the Office of Administrative Law and filed with the Secretary of State in accordance with Government Code section 11349.3. Questions regarding the content of this notice may be directed to Colleen Monahan at (916) 576-4952.

Dated: December 29, 2020
Sacramento, California