

**PROPOSED CHANGES UNDER THE
CALIFORNIA FINANCING LAW**

**Title 10. Investment
Chapter 3**

**Fourth Modifications
Modified: December 29, 2020
(Additions shown by double underline and
deletions shown by double strikethrough)
PRO 02/17**

**Chapter 3. Commissioner of ~~Business Oversight, Division of Corporations~~
Financial Protection and Innovation**

**Subchapter 6. California Finance Lenders Financing Law (~~Finance Company
Rules~~)**

§ 1404. Definitions

The following terms used in ~~Subchapter~~ subchapter 6 of these rules shall have (unless the context otherwise indicates) the following meanings:

(a) "Call report" or "NMLS Mortgage Call Report" means a report of condition on the company and its operations including financial statements and production activity volumes.

(b) "Company" includes all domestic and foreign private corporations, limited liability companies, joint ventures, associations, syndicates, joint stock companies, partnerships of every kind, unincorporated organizations, government or political subdivisions of a government, trustees and individuals.

(c) "Department" means the Department of ~~Corporations Business Oversight~~
Financial Protection and Innovation of the State of California.

(d) "Finance company" means a ~~company~~ finance lender or broker subject to the

California Finance Lenders Financing Law and also has the same meaning as "licensee" as defined in Financial Code Section 22007.

(e) "Law" or "Code" means the California Finance Lenders Financing Law.

(f) "Mortgage lender" or "mortgage broker" or "mortgage lender and broker" means a finance company, ~~finance lender, or broker~~ who makes, brokers, or services residential mortgage loans and who is required to be licensed pursuant to Section section 22100 of the Code.

(g) "Form MU1" means the uniform licensing form, entitled "NMLS Company Form," developed by the Nationwide Mortgage Multistate Licensing System and Registry for use by a company or sole proprietor to apply for and maintain licensure by a state through NMLS. Version 11.0, dated 9/12/2015, is hereby incorporated by reference in its entirety. ~~for a mortgage lender, mortgage servicer, or mortgage broker business, entitled "Uniform Mortgage Lender/Mortgage Broker Form.~~

(h) "Form MU2" means the uniform licensing form, entitled "NMLS Individual Form," developed by the Nationwide Mortgage Multistate Licensing System and Registry for background information about individuals who own or control the activities of an applicant or licensee. ~~for a person directly or indirectly exercises control over Version 9, dated 9/12/16, is hereby incorporated by reference in its entirety.~~ a mortgage lender, mortgage servicer, or mortgage broker business, or a branch thereof, including qualifying individuals and branch managers specified in Form MU1, entitled "Uniform Mortgage Biographical Statement & Consent Form."

(i) "Form MU3" means the uniform licensing form, entitled "NMLS Branch Form," developed by the Nationwide Mortgage Multistate Licensing System and Registry for

an applicant or a licensee under Form MU1 to apply for or maintain a the branch office of through NMLS. Version 10, dated 3/31/14, is hereby incorporated by reference in its entirety. a mortgage lender, mortgage servicer, or mortgage broker, entitled "Uniform Mortgage Branch Office Form."

(j) "Form MU4" means the uniform licensing form developed by the Nationwide ~~Mortgage~~ Multistate Licensing System and Registry for an individual mortgage loan originator license or registration, entitled "Uniform Individual Mortgage License/Registration & Consent Form."

(k) "NMLS" means the Nationwide ~~Mortgage~~ Multistate Licensing System and Registry.

(l)(1) If the applicant or licensee is a finance company, "outstanding interests" means equity interests in a finance company (if the applicant or the licensee is a partnership) that have the power to: (1) vote to elect or direct the management of the applicant or the finance company, or (2) conduct or manage the lending activities of the finance company. The term "outstanding interests" does not include: (i) an equity interest in the partnership which represents only an economic interest such as a right to receive income and other distributions from the partnership, or (ii) an equity interest which does not give the owner or holder the right or ability, directly or indirectly, to elect or direct management of the applicant or the finance company, or (iii) equity interests where the owner or holder of such interests have entered into a written agreement whereby any right to vote such equity securities are disclaimed (such as an undertaking that any vote will mirror management's vote or the vote of the rest of the finance company's equity interests) or relinquished such that the owner or holder of

such equity securities cannot, directly or indirectly, elect officers, directors, or management or otherwise direct, conduct or manage the lending activities of the applicant or finance company.

(2) If the applicant or licensee is a program administrator, “outstanding interests” means equity interests in a program administrator (if the applicant or the licensee is a partnership) that have the power to: (1) vote to elect or direct the management of the applicant or the program administrator, or (2) conduct or manage the administering of the PACE program of the program administrator. The term “outstanding interests” does not include: (i) an equity interest in the partnership which represents only an economic interest such as a right to receive income and other distributions from the partnership, or (ii) an equity interest which does not give the owner or holder the right or ability, directly or indirectly, to elect or direct management of the applicant or the program administrator, or (iii) equity interests where the owner or holder of such interests have entered into a written agreement whereby any right to vote such equity securities are disclaimed (such as an undertaking that any vote will mirror management’s vote or the vote of the rest of the program administrator’s equity interests) or relinquished such that the owner or holder of such equity securities cannot, directly or indirectly, elect officers, directors, or management or otherwise direct, conduct or manage the administering of the PACE program activities of the applicant or program administrator.

(m)(1) If the applicant or licensee is a finance company, “outstanding equity securities” means securities of a corporation, trust, limited liability company, or association, including an unincorporated organization, that have the power to: (1) vote

for or elect the management of the applicant or the finance company, or (2) direct, conduct or manage the lending activities or other operations of the finance company.

The term “outstanding equity securities” does not include: (i) non-voting equity securities which represent only an economic interest or a right to receive income and other distributions, or (ii) equity securities which do not give the owner or holder the right or ability, directly or indirectly, to elect or direct management of the applicant or the finance company, or (iii) equity securities where the owner or holder of such securities have entered into a written agreement whereby any right to vote such equity securities are disclaimed (such as an undertaking that any vote will mirror management’s vote or the vote of the rest of the finance company’s stockholders) or relinquished such that the owner or holder of such equity securities cannot elect, directly or indirectly, officers, directors, or management or otherwise direct, conduct or manage the lending activities of the applicant or finance company.

(2) If the applicant or licensee is a program administrator, “outstanding equity securities” means securities of a corporation, trust, limited liability company, or association, including an unincorporated organization, that have the power to: (1) vote for or elect the management of the applicant or the program administrator, or (2) direct, conduct or manage the administering of the PACE program or other operations of the program administrator. The term “outstanding equity securities” does not include: (i) non-voting equity securities which represent only an economic interest or a right to receive income and other distributions, or (ii) equity securities which do not give the owner or holder the right or ability, directly or indirectly, to elect or direct management of the applicant or the program administrator, or (iii) equity securities

where the owner or holder of such securities have entered into a written agreement whereby any right to vote such equity securities are disclaimed (such as an undertaking that any vote will mirror management's vote or the vote of the rest of the program administrator's stockholders) or relinquished such that the owner or holder of such equity securities cannot elect, directly or indirectly, officers, directors, or management or otherwise direct, conduct or manage the lending activities of the applicant or program administrator.

(n) "Sponsoring" or "to sponsor" means to maintain an employment relationship between a mortgage loan originator and a mortgage lender, mortgage broker, or mortgage lender and broker where the mortgage loan origination activities of the mortgage loan originator are subject to the supervision and oversight of the mortgage lender, mortgage broker, or mortgage lender and broker. A licensed mortgage lender, mortgage broker, or mortgage lender and broker is the "sponsor" of a mortgage loan originator employed by, and subject to the supervision and oversight of, the mortgage lender, mortgage broker, or mortgage lender and broker. For purposes of ~~Subchapter~~ subchapter 6 of these rules, an employment relationship may be established through factors such as supervision and control of the sponsored mortgage loan originator, legal and regulatory responsibility for the acts of the mortgage loan originator, and performance under the name, authority and policies of the sponsor, and is not necessarily contingent on whether a mortgage loan originator is issued a Form W-2 by the sponsor.

Note: Authority cited: ~~Sections 22012, 22100 and~~ Section 22150, Financial Code.
Reference: ~~Sections 2200~~ Sections 22000, et seq. 22004, 22008, 22009, 22012,

22100, 22101, 22105, 22109.1, and 22159, Financial Code.

§ 1408. Waivers Prohibited

(a) A finance company shall not require or permit a borrower to waive any statutory provision of the Law for his/her benefit, including any notice which the law requires to be given to the borrower (however, any notice may be given by registered mail, directed to his/her last known address), nor shall a finance company require or permit a borrower to waive any mandatory provision of these rules and regulations.

(b) A program administrator shall not require or permit a property owner to waive any statutory provision of the Law, Streets and Highways Code sections 5898.16 or 5898.17, or chapter 29.1 (commencing with section 5900) of part 3 of division 7 of the Streets and Highways Code, for his or her benefit, including any notice which any law requires to be given to the property owner, nor shall a program administrator require or permit a property owner to waive any mandatory provision of these rules and regulations, unless the law or regulation expressly authorizes a waiver.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22001 and 22689 22150, Financial Code; Sections 5898.16, 5898.17, 5913, 5914, 5922, 5923, 5924, 5925, 5926, 5940, and 5954, Streets and Highways Code.

§ 1409. Officers, Directors, Partners, and Other Persons: Maintenance of Current List with Commissioner: Information Required

(a) A ~~finance company~~ licensee shall at all times maintain on file with the Commissioner a current list of officers, directors, and partners in the case of a partnership, and other persons named in the application. Changes in partnerships are limited to the conditions set forth in ~~Section~~ section 22151, subdivision (b) of the Law.

In the event of any change, other than transfers between branch offices, in the officers, directors, or partners, or other persons named in the application, a ~~finance company~~ licensee shall file with the Commissioner an amendment to the application containing the same information in relation to such new person(s) as is required in the application, within thirty days from the date of the change.

(b) A ~~mortgage lender, mortgage broker, or mortgage lender and broker~~ licensee on NMLS shall comply with ~~subsection~~ subdivision (a) by submitting changes to the Commissioner through NMLS on Forms MU1, MU2, MU3, and MU4, as applicable.

Note: Authority cited: ~~Sections 22100, 22101 and~~ Section 22150, Financial Code.
Reference: Sections 22100, 22100.5, 22101, 22108, 22109, 22109.6, ~~22150 and~~ 22151, Financial Code.

§ 1409.1. Notice of Changes by Licensee on NMLS Mortgage Lender, Mortgage Broker, Mortgage Lender and Broker, and Mortgage Loan Originator.

(a) Each licensed ~~mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator~~ licensee on NMLS, including a mortgage loan originator licensee, shall, upon any change in the information contained in its license application (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information.

(b) A ~~mortgage lender, mortgage broker, and mortgage lender and broker~~ licensee on NMLS shall file changed information contained in its Forms MU1, MU2, and MU3, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner.

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information as provided in ~~Section~~ section 1422.6 of ~~Subchapter~~ subchapter 6 of these rules. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under ~~Section~~ section 1422.6.3 of ~~Subchapter~~ subchapter 6 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

(d) A licensed mortgage lender, mortgage broker, and mortgage lender and broker shall notify the Commissioner of the employment of any new mortgage loan originator in California and of the termination of employment of any mortgage loan originator in California in accordance with ~~Section~~ section 1422.6 of ~~Subchapter~~ subchapter 6 of these rules.

(e) If a mortgage lender, mortgage broker, or mortgage lender and broker discovers that a sponsored mortgage loan originator has not filed an amendment to his or her Form MU4, the mortgage lender, mortgage broker, or mortgage lender and broker shall require the mortgage loan originator to file the amendment immediately. If, within five (5) days from the demand, the mortgage loan originator has not made the changes, the mortgage lender, mortgage broker, or mortgage lender and broker shall inform the Commissioner in writing.

Note: Authority cited: Sections ~~22100 and 22108~~, and 22150, Financial Code.
Reference: Section 1798.18, Civil Code; and Sections 22100, 22106 and 22108,

Financial Code.

§ 1411. Criminal Actions: Report to Commissioner

(a) A ~~finance lender~~ licensee shall immediately report in writing to the Commissioner any criminal action filed against such company or its directors, officers or management personnel.

(b) A ~~mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator~~ licensee whose license record is in NMLS, including a mortgage loan originator licensee, shall file the information in ~~subsection~~ subdivision (a) with the NMLS on Form MU1 and MU2, as applicable, in accordance with its procedures for transmission to the Commissioner.

Note: Authority cited: Sections 22108 and 22150, Financial Code. Reference: Sections 22108, 22109, 22109.1, 22701, 22705 and 22714, Financial Code.

§ 1422. Application for License as a Finance Lender or Broker under the California Financing Law: Form.

(a) (1) On or after July 1, 2021, an applicant shall file an application for a license through NMLS in accordance with its procedures, as provided in section 1422.5 of these rules.

(2) For applications submitted prior to July 1, 2021, the ~~The~~ application for a license as a finance lender or broker pursuant to Financial Code Section 22100 shall be filed upon the form set forth in subdivision (c) of this section.

(b) Within 45 calendar days from the receipt of the application under this rule, the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation shall inform

the applicant, in writing, that the application is complete and accepted for filing, or that the application is deficient and specify what information is required to complete the application. Within 60 calendar days from the filing of a completed application, as determined by the Commissioner of Financial Protection and Innovation, the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation shall reach a decision on the license.

(c) An application for a license as a finance lender or broker under paragraph (a)(2) shall be submitted to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation on the following form:

STATE OF CALIFORNIA

DEPARTMENT OF BUSINESS OVERSIGHT FINANCIAL PROTECTION AND INNOVATION

INSTRUCTIONS FOR COMPLETING

THE APPLICATION FOR A FINANCE LENDER OR BROKER LICENSE UNDER THE CALIFORNIA FINANCE LENDERS FINANCING LAW (CFL)

WHO IS REQUIRED TO OBTAIN A LENDERS LICENSE UNDER THE CALIFORNIA FINANCING LAW?

In general, any person engaging in the business of a finance lender, ~~or finance a broker, or a program administrator~~ must ~~is required to~~ obtain a license under the California Finance Lenders license Financing Law. The ~~CFL~~ CFL contains a number of exemptions for persons licensed by other regulatory agencies. The CFL does not contain any licensing exemptions for program administrators, although the definition of “program administrator” excludes certain persons.

A ~~finance broker licensed~~ broker license under the ~~CFL~~ CFL may only authorizes a broker to broker loans to licensed finance lenders ~~licensed as finance lenders~~. The license does not provide the broker with the authority to broker loans to and collect brokerage commissions from other types of lenders such as credit unions and banks. Therefore, a broker who brokers loans to financial institutions that are not CFL licensees should confirm that no other state licensing law is applicable to the brokering activity (such as the Real Estate Law).

All companies engaged in making or brokering loans secured by residential real property or engaging in the business of a program administrator ~~will be required to~~ must obtain a license

through NMLS. Other applicants may obtain a license with this application until on or after July 1, 2021, when all applicants must obtain a license through NMLS. All licensees must transition onto NMLS by December 31, 2021.

ASSISTANCE WITH THE APPLICATION

Refer to these instructions while completing the ~~CFL~~ CFL application. If you have questions about the application that are not answered by these instructions, call the Department of ~~Business Oversight's~~ Financial Protection and Innovation's toll-free telephone number at ~~1-(866)-1-866-275-2677~~. Departmental personnel cannot provide individual legal or accounting advice. Applicants who need such advice must consult a qualified professional.

FEES AND PROCESSING OF THE APPLICATION

The application and all exhibits must be typewritten. ~~All signatures must be original and not a copy.~~ Attach additional sheets if you need more space to complete an answer to any of the questions. Answer every question in the application, unless these instructions direct otherwise, and label the answers by the corresponding question number or exhibit letter.

The application, including all exhibits, must be accompanied by a nonrefundable application fee of \$200, an investigation fee of \$100, and fingerprint processing fees. The applicable fingerprint processing fee is \$20 per individual if the individual resides in California. If the individual resides outside of California, the applicable fingerprint processing fee is \$86 per individual. The application fee, investigation fee, and fingerprint processing fees are not refundable if the application is denied or withdrawn. Detailed instructions for the fingerprint processing requirements are listed below under "Exhibit C."

Make check(s) payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation for the total amount of all fees. The application, exhibits, and fees must be filed only in

the Los Angeles office of the Department of ~~Business Oversight~~ Financial Protection and Innovation, located at 320 West 4th Street, Suite 750, Los Angeles, California 90013. **Applications which do not include all required information and exhibits will not be processed.**

THE ~~CFL~~ CFL APPLICATION

References to exhibits in these instructions pertain to specific documents that must be submitted with the ~~CFL~~ CFL application. The headings used in these instructions correspond to the application item numbers and exhibit letters in the ~~CFL~~ CFL application.

COVER PAGE OF APPLICATION:

Check **one** box only to reflect the type of license for which you are applying, either “Lender” or “Broker” or “Both.” Do not check more than one box.

ITEM NUMBER 1 OF APPLICATION:

1.a. Name of Applicant:

Provide the applicant’s legal name. For individuals (sole proprietors), list first, middle and last name. If a sole proprietor applicant has no middle name, indicate, e.g., “John [no middle name] Smith.”

Note: Some foreign entities are required by the California Secretary of State’s office to use an assumed name for all business they conduct in California. Such entities should provide that assumed name as the “Name of Applicant” and may only use that name. Such entities are not permitted to use a fictitious business name.

1.b. Fictitious Business Name:

An applicant who intends to conduct ~~CFL~~ CFL business under a fictitious business name that is different from its legal name should list the fictitious business name here. Enter the name exactly as it appears on the Fictitious Business Name Statement as filed with the county clerk. The

fictitious business name must be provided in addition to the legal name. Applicants who intend to conduct business under a fictitious business name are required to comply with the rules governing the filing of a fictitious business name as set forth in the Business and Professions Code, beginning at ~~Section~~ section 17900.

1.c. Filing of Fictitious Business Name:

Provide the name of the county in which the fictitious business name is filed. The fictitious business name must be filed in the county of the applicant's main office address.

ITEM NUMBER 2 OF APPLICATION:

Applicant is Organized and Will Do Business As:

Check the appropriate box to indicate the organizational form of the applicant.

ITEM NUMBER 3 OF APPLICATION:

Applicant's Licensed Place of Business:

Provide the applicant's full proposed place of ~~CFL~~ CFL business, including number and street, city, county, state, and zip code. An additional ~~CFL~~ CFL license is required for each additional business locations.

ITEM NUMBER 4 OF APPLICATION (Sole Proprietor Applicants ONLY):

This item is to be completed only by applicants who are sole proprietors and not organized as any other form of business.

4.a. Name of Sole Proprietor Applicant:

List the sole proprietor's full first, middle, and last name. If the applicant has no middle name, indicate, e.g., "John [no middle name] Smith."

4.b. Person(s) Who Will Be in Charge of the Place of Business:

Provide the full name, address, telephone number, and e-mail address of all managers as

“person(s) who will be in charge of the place of business.” “Managers” are persons with authority to manage the operations of the organization in California.

4.c. Agent for Service of Process (Sole Proprietor Applicants Outside of California ONLY):

Provide the name and address of the applicant’s agent for service of process in California. Provide this information if the applicant has an agent in California who is authorized to accept service on its behalf. As an example, it is common for persons to authorize their attorney to accept service of process on their behalf. Indicate if there is no authorized agent for service of process in California by stating “none”.

ITEM NUMBER 5 OF APPLICATION (Partnership Applicants ONLY):

This item of the application must be completed only by applicants organized as a general or limited partnership.

5.a. Organization:

Include the full date (month, day, and year) and the state where the partnership was organized.

5.b. General Partners:

Provide the requested information for all general partners and indicate if the general partner is a managing general partner by checking the box.

5.c. Person(s) Who Will Be In in Charge of the Place of Business:

Provide the full name, address, telephone number, and e-mail address of all managers as “person(s) who will be in charge of the place of business.” “Managers” are persons with authority to manage the operations of the organization in California.

5.d. and 5.e. Other Persons:

List the full name of any other person with direct involvement in the applicant’s proposed activities under the ~~CFL~~ CFL license in 5.d. and any person that owns or controls, directly or indirectly, 40%

10 percent or more of the outstanding interests of the applicant in 5.e. This includes any entity owning ~~40%~~ 10 percent or more of the outstanding interests of the applicant.

~~If the applicant is owned by another entity(s) or individual(s), or has subsidiaries or affiliated entities, provide an organization chart identifying each entity or individual percentage of ownership in the applicant. Label the organization chart as Exhibit M.~~

5.f. Agent for Service of Process (General Partnership Applicants ONLY):

Provide the name and address of the applicant's agent for service of process in California. Provide this information if the applicant has an agent in California who is authorized to accept service on its behalf. For example, it is common for persons to authorize their attorney to accept service of process on their behalf. Indicate if there is no authorized agent for service of process in California by stating "none".

ITEM NUMBER 6 OF APPLICATION (Corporations and Other Business Entities):

Complete this item of the application only if the applicant is applying as a corporation, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, government, or political subdivision of a government.

6.a. Organization:

Include the full date (month, day, year) of organization and the state where the applicant was organized.

6.b. Officers and Directors:

List the full name of each of the officers, directors, managers, and trustees.

6.c. Person(s) Who Will Be in Charge of the Place of Business:

Provide the full name, address, telephone number, and e-mail address of all managers as "person(s) who will be in charge of the place of business." "Managers" are persons with authority to

manage the operations of the organization in California.

6.d. and 6.e. Other Persons:

List the full name of any other person with direct responsibility for the applicant's proposed activities under the ~~CFL~~ CFL license in 6.d. and any other person that owns or controls, directly or indirectly, ~~40%~~ 10 percent or more of the outstanding equity securities of the applicant in Item 6.e. This includes any entity owning ~~40%~~ 10 percent or more of the outstanding equity securities of the applicant.

~~If the applicant is owned by another entity(s) or individual(s), or has subsidiaries or affiliated entities, provide an organization chart identifying each entity or individual and their percentage of ownership in the applicant. Label the organization chart as Exhibit M.~~

ITEM NUMBER 7 OF APPLICATION:

Regulatory or Other Action:

Under Financial Code ~~Section~~ section 22109, ~~subdivision paragraphs~~ (a)(2) and (3), the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation may deny an application for a finance lender or broker license if the applicant or individuals(s) or entity(s) required to be disclosed in response to Items 4 through 6 above ("disclosed person") has been convicted of a crime or committed an act involving dishonesty, fraud, or deceit within the last 10 years, or if the applicant or disclosed person has violated the ~~CFL~~ CFL or other similar regulatory scheme at any time. Describe, if applicable, by providing the information requested. Attach a copy of each action.

ITEM NUMBER 8 OF APPLICATION:

Other Business at Location:

Financial Code ~~Section~~ section 22154 requires written authorization from the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation to conduct non-~~CFL~~ CFL business from a

~~CFL~~ CFL-licensed location. Check the appropriate box. Describe, if applicable, any other business that will be conducted from the same location as the ~~CFL~~ CFL-licensed business in sufficient detail that will allow the Commissioner of Financial Protection and Innovation to find that the character of the other business is such that the granting of authority to conduct other business at a CFL-licensed location would not facilitate evasions of the CFL or its rules and regulations. If none, so state.

ITEM NUMBER 9 OF APPLICATION:

Bonding Agent:

Provide the name, address, and telephone number of the bonding agent that the Department can contact regarding the applicant's surety bond.

ITEM NUMBER 10 OF APPLICATION:

10.a. Proposed Activities:

This item of the application requires the applicant to provide basic information regarding its proposed activities. Check the appropriate boxes to indicate the type of collateral that will be securing the loans that you are making or brokering, and indicate the corresponding minimum dollar amount of the loans made or brokered. Check all boxes that are applicable. There is a statutory minimum of \$5,000 or more for commercial purpose loans and consumer loans secured by real estate.

Commercial purpose loans less than \$5,000 are treated statutorily as consumer purpose loans.

10.b. Business Plan:

Provide a ~~short description of~~ business plan that describes how the applicant plans to conduct business under the ~~CFL~~ CFL license. Include any information necessary for the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation to ~~have an understanding~~ understand the type of business that the applicant plans to conduct under this license.

ITEM NUMBER 11 OF APPLICATION:

Qualification of Securities:

Check the appropriate box to indicate whether the applicant's offer and sale of securities have been qualified in California. Under the Corporate Securities Law of 1968, companies, individuals or other entities that offer and sell securities including common stock, debt, limited partnership interests or limited liability company membership interests, employee stock options, etc., in California must claim an exemption or qualify the offering by filing an application. If exempt, the applicant must have the appropriate limited/small offering exemption notice on file with the Department. Please contact ~~our~~ ~~Customer Service Office~~ the Department of Financial Protection and Innovation at 1-866-275-2677 for further information.

ITEM NUMBER 12 OF APPLICATION:

Designated Department of Financial Protection and Innovation Email Account:

Provide a designated email account to receive communications from the Department of Financial Protection and Innovation. Applicants must establish and maintain an email account designated for communications with the Department of Financial Protection and Innovation. In addition to identifying the email account in this application, an applicant must register online and designate the email address through the DFPI Self Service Portal at <https://docqnet.dfp.ca.gov/>. The email account must conform to the following parameters:

- (1) The account must be a generic address and not an individual's email.
- (2) The account must allow the receipt of all "@govdelivery.com" emails.
- (3) The security settings of the account must allow for the receipt of attachments.
- (4) The account must allow for the distribution of emails to the appropriate individuals within the applicant.

(5) The account must be continuously maintained.

EXHIBITS

EXHIBIT A:

Balance Sheet

Exhibit A requires each applicant (i.e., the person identified as “Name of Applicant” in Item Number 1) to submit a financial statement in the form of a balance sheet prepared according to generally accepted accounting principles that is dated no more than 90 days before the date that the application is filed with the Department. For example, if the applicant is a corporation, then submit a balance sheet for the corporation. If the applicant is a sole proprietor, then submit a personal balance sheet. Label the balance sheet as Exhibit A.

The applicant must meet and maintain a minimum net worth of \$25,000 at all times. (Financial Code ~~Section~~section 22104.) If the applicant does not meet this net worth requirement as evidenced by the balance sheet submitted with the application, then the application ~~cannot~~ will not be approved. Applicants needing assistance should consult an accountant.

EXHIBIT B:

Surety Bond

Provide the original surety bond, including riders and endorsements, in the amount of \$25,000. A bond form and instructions are enclosed.

To complete the bond form:

1. Read the instructions on the bond form before completing the bond.
2. The bond and the cover page of the bond must be in the name of the applicant as provided in Item Number 1 of this application under “Name of Applicant”.
3. The bond must be signed by the applicant (if the applicant is a sole proprietor), or by one of

the individuals named in Item Number 4, 5, or 6 of the application and who is authorized to sign on behalf of the applicant, in the space designated "Signature of Principal".

4. The signature of the applicant must be notarized.
5. The bond must contain the original power-of-attorney-form issued by the surety bond company.
6. The bond must be signed by the surety bond company in the space designated "Signature of Attorney-in-Fact for Surety" and the signature must be notarized.

EXHIBIT C:

Statement of Identity and Questionnaire

Each individual (natural person) named in Item Numbers 4, 5, and 6 of the application must complete a Statement of Identity and Questionnaire. Submit the Statement of Identity and Questionnaire with the fingerprint information and the cost of fingerprint processing (discussed below).

The 10-year employment and residence histories in the Statement of Identity and Questionnaire must be complete and accurate. Attach copies of all pertinent court and other documents requested.

The Statement of Identity and Questionnaire must be notarized if executed outside the State of California.

If an entity owns or controls 40% 10 percent or more of the outstanding interests or outstanding equity securities of the applicant or licensee, a Statement of Identity and Questionnaire and fingerprints ~~must~~ need not be submitted for each officer, director, general partner, or managing member of the owner, unless that individual is responsible for the day-to-day business decisions related to the applicant's lending activities in this state, as applicable. ~~The Commissioner may waive this requirement if it is determined that further investigation is not necessary for public protection.~~

~~A public company may submit fingerprints only for persons not included on the public company's Form 10-K, Form 10-Q or other similar document filed with the Securities and Exchange Commission. The applicant must submit a copy of Form 10-K, Form 10-Q, or other similar document that includes the name of the individuals not submitting fingerprints. Statement of Identity and Questionnaires must still be completed for all individuals. For purposes of this paragraph, "public company" means a company whose securities are listed or designated on a national securities exchange certified by Commissioner of Business Oversight under subdivision (e) of Section 25100 of the California Corporations Code.~~

Fingerprints

All individuals named in Item Numbers 4, 5, and 6 of the application must submit fingerprints and related information to the Department of ~~Business Oversight~~ Financial Protection and Innovation with the application, for the purposes of conducting a criminal history background check. (Financial Code ~~Section~~ section 22101.5.) Applicants must pay for the cost of processing the fingerprints.

Instructions for In-State Individuals Required to Submit Fingerprints:

~~Each individual named in Item Numbers 4, 5, and 6 of the application who resides in California must complete a "Request for Live Scan Service" form. The triplicate form can be printed from the Department of Business Oversight's~~ Financial Protection and Innovation's website at www.dbo.ca.gov ~~www.dfpi.ca.gov~~. ~~Adobe Reader 7.x is required to download the form correctly.~~ The individuals must take the three-part form to a live scan location to have their fingerprints taken by the operator and submitted electronically to the California Department of Justice for processing. The applicant ~~will be required to~~ must pay the fees charged by the California Department of Justice for processing the fingerprints directly to the live scan operator. The Attorney General's website at <https://oag.ca.gov/fingerprints> ~~http://caag.state.ca.us/fingerprints/publications/contact.htm~~ has

current information concerning the Department of Justice's fees and the location of live scan terminals. You may also call the Department of ~~Business Oversight~~ Financial Protection and Innovation at 1-(866) 1-866-275-2677 for information concerning the location of live scan terminals. Submit the "Requesting Agency Copy" of the "Request for Live Scan Service" form and a processing fee of \$20 per individual for live scan submission with the ~~CFL~~ CFL application and the Statement of Identity and Questionnaire to the Department of ~~Business Oversight~~ Financial Protection and Innovation. Make the check for the fingerprint processing fees payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation.

Instructions for Out-of-State Individuals Required to Submit Fingerprints:

Individuals residing outside of California are encouraged to come to California, if practical, to have their fingerprints taken and submitted electronically through California's Live Scan process, to significantly decrease the processing time. However, an out-of-state individual named in Item Numbers 4, 5, and 6 may provide fingerprint images to the Department of ~~Business Oversight~~ Financial Protection and Innovation on fingerprint cards. Call the Department of ~~Business Oversight~~ Financial Protection and Innovation at 1-(866) 1-866-275-2677 to obtain fingerprint cards. The Department of ~~Business Oversight~~ Financial Protection and Innovation will mail the fingerprint cards to you. In addition, you must also complete a "Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement" form, available from the Attorney General's website at [\[https://oag.ca.gov/sites/all/files/pdfs/fingerprints/bcii9004.pdf or current location\]](https://oag.ca.gov/sites/all/files/pdfs/fingerprints/bcii9004.pdf) <http://caag.state.ca.us/fingerprints/pdf/bcii9004.pdf>. The fee to process the fingerprint card is \$86 per individual, which includes the Department of ~~Business Oversight's~~ Financial Protection and Innovation's processing fee of \$20 and the Department of Justice's processing fee of \$66. Make the check for all fees payable to the Department of ~~Business Oversight~~ Financial Protection and

Innovation. Submit the fingerprint cards, “Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement” form, the fees, and the Statement of Identity and Questionnaire with the ~~CFL~~ CFL application to the Department of ~~Business Oversight~~ Financial Protection and Innovation.

EXHIBIT D (Sole Proprietor Applicants ONLY):

Proof of Legal Presence

~~Exhibit D is the~~ Sole proprietor applicants must complete and submit the “Statement of Citizenship, Alienage, and Immigration Status for Application of Department of ~~Business Oversight~~ Financial Protection and Innovation License or Certificate,” in Exhibit D. ~~which must be completed and submitted by sole proprietor applicants.~~ Include copies of the acceptable proof of citizenship as outlined in List A of the Statement of Citizenship, Alienage, and Immigration Status.

Complete this form and submit proof of your citizenship only if applying for the license as a sole proprietor. Officers of corporations, limited liability companies or partnerships are not required to complete this form.

EXHIBIT E:

Authorization for Disclosure of Financial Records

Exhibit E is the “Customer Authorization for Disclosure of Financial Records”. Submit this form as part of the application package. The form must be signed by an individual named in Item Numbers 4, 5, or 6 of the application ~~and~~ who is authorized to sign on behalf of the applicant.

EXHIBIT F:

Fictitious Business Name Statement

Submit a copy of the current Fictitious Business Name Statement with the “filed stamp” from the county clerk’s office. The applicant’s name must appear as a registrant on the Fictitious Business

Name Statement. Label this document as Exhibit F.

EXHIBIT G: All Corporate Applicants Incorporated ~~In~~in Any State

Corporations must submit an ORIGINAL certificate of qualification or good standing from the Secretary of State or other authority of the applicant's state of incorporation. The name on the certificate must match the name listed in Item Number 1 of the application. **The certificate must also indicate the original date of incorporation.** Label this document as Exhibit G.

EXHIBIT H (Foreign Corporations ONLY):

Additional Requirements for Applicants Incorporated ~~In~~in States Other Than California

Applicants incorporated OUTSIDE the State of California must submit an original certificate of qualification or good standing issued by the California Secretary of State, in addition to the document required in Exhibit G.

Foreign corporations must register and qualify the corporation to conduct business in the State of California as a foreign corporation through the California Secretary of State. The name on the certificate must match the name listed in Item Number 1 of the application. Label the document as Exhibit H.

EXHIBIT I: All General Partnership Applicants Organized ~~In~~in Any State

Partnership Agreement

Provide a copy of the original partnership agreement. **The agreement must indicate the original date of organization.** Label the document as Exhibit I.

EXHIBIT J: Applicants Organized ~~In~~in Any State as a Limited Partnership or Limited Liability Company

Limited partnerships and limited liability companies must submit an ORIGINAL certificate of qualification or good standing from the Secretary of State or other authority of the applicant's state

of organization. The name on the certificate must match the name in Item Number 1 of the application. **The certificate must also indicate the original date of organization.** Label the document as Exhibit J.

EXHIBIT K (Foreign Business Entities ONLY):

Additional Requirements for Applicants Organized as a Limited Partnership or Limited Liability Company in States Other Than California

A foreign limited partnership or foreign limited liability company must also register and qualify to conduct business in the State of ~~California, and California and~~ provide an original certificate of qualification or good standing from the California Secretary of State. The name on the certificate must match the name listed in Item Number 1 of the application. Label the document as Exhibit K.

EXHIBIT L:

Social Security Number or Federal Taxpayer Identification Number

Individuals (sole proprietors) applying for a license must provide their social security number. Corporations, partnerships, limited liability companies and other business entities, except sole proprietorships, applying for a license must provide the federal taxpayer identification number. The Department of ~~Business Oversight~~ Financial Protection and Innovation ~~is required to~~ must collect social security numbers from all applicants ~~social security numbers~~ under Family Code ~~Section~~ section 17520, and social security numbers or federal taxpayer identification numbers under Business and Professions Code ~~Section~~ section 494.5. The social security number or federal taxpayer identification number is used to match the information to the names on the list provided by the Department of Child Support Services under Family Code ~~Section~~ section 17520, and the lists of tax delinquencies provided by the State Board of Equalization and the Franchise Tax Board under Business and Professions Code ~~Section~~ section 494.5. Any disclosed social security

numbers and federal taxpayer identification numbers in the completed application will be considered confidential information, and will be filed and maintained as part of the confidential records not subject to public inspection. Refer to Commissioner's Release 2-G for further information concerning privacy protection of personal information.

EXHIBIT M:

~~Organization~~ Organizational Chart

If the applicant is owned by another entity(s) or individual(s), ~~or has subsidiaries or affiliated entities,~~ or is an affiliate of or affiliated with another entity, provide an ~~organization~~ organizational chart identifying each entity or individual that owns the applicant or with whom the applicant is affiliated. ~~and their~~ Identify each entity and individual's percentage of ownership in the applicant. Label the ~~organization~~ organizational chart as Exhibit M.

For purposes of this exhibit, an applicant is an "affiliate" of, or an applicant is "affiliated" with, another entity if the applicant directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the other entity, and an affiliate includes subsidiaries of the applicant.

On or as an attachment to the organizational chart, identify by name and title the directors, officers, managing members, and partners, as applicable, for the applicant and each direct owner of 10 percent or more of the applicant.

EXECUTION SECTION:

Complete the required information. The Execution Section must be signed by the applicant in the case of a sole proprietor applicant or, for other types of applicants, by an individual who is named in Item Numbers 4, 5, or 6 of the application and who is authorized to sign on behalf of the applicant. By signing the application, the applicant agrees with the representations listed and agrees to

appoint the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation to receive service of process on behalf of the applicant.

~~CFL~~ CFL Application Checklist

Application Question Number or Exhibit Letter	Sole Proprietor	Domestic Corporation	Foreign Corporation	Domestic LLC	Foreign LLC	Domestic General or Limited Partnership	Foreign General or Limited Partnership
1. Name	X	X	X	X	X	X	X
2. Business Type	X	X	X	X	X	X	X
3. Place of Business	X	X	X	X	X	X	X
4. Sole Proprietor Licensee Information	X						
5. Partnership Licensee Information						X	X
6. Corporation & Other Licensee Information		X	X	X	X		
7. Regulatory or Other Action	X	X	X	X	X	X	X
8. Other Business at Location	X	X	X	X	X	X	X
9. Bonding Agent	X	X	X	X	X	X	X
10. Proposed Activities	X	X	X	X	X	X	X
11. Qualification of Securities	X	X	X	X	X	X	X
12. Designated email account	X	X	X	X	X	X	X
A. Balance Sheet	X	X	X	X	X	X	X
B. Surety Bond	X	X	X	X	X	X	X
C. Statement of Identity	X	X	X	X	X	X	X
D. Sole Proprietor Licensee Information	X						

E. Authorization for Disclosure	X	X	X	X	X	X	X
F. Fictitious Business Name	X	X	X	X	X	X	X
G. Corporation Licensee Information		X	X				
H. Foreign Corporation Licensee Information			X				
I. General Partnership Licensee Information						GP ONLY X	GP ONLY X
J. Limited Partnership & LLC Licensee Information				X	X	LP ONLY X	LP ONLY X
K. Foreign Limited Partnership & LLC Licensee Information					X		LP ONLY X
L. Social Security Number or Federal Taxpayer Identification Number	X	X	X	X	X	X	X
M. <u>Organization</u> <u>Organizational</u> Chart		X	X	X	X	X	X
Execution Section	X	X	X	X	X	X	X

(Department of ~~Business Oversight~~ Financial Protection and Innovation Use Only)

DEPARTMENT OF BUSINESS OVERSIGHT
FINANCIAL PROTECTION AND
INNOVATION

Fee Paid \$ _____

File No. _____

Receipt No. _____

STATE OF CALIFORNIA

DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION

APPLICATION FOR A LICENSE UNDER THE
CALIFORNIA ~~FINANCE LENDERS~~ FINANCING LAW

APPLICATION FOR A LICENSE AS A: LENDER BROKER BOTH

The application must be accompanied by a nonrefundable application fee of \$200, a nonrefundable investigation fee of \$100, and nonrefundable fingerprint processing fees (Departments of ~~Business Oversight~~ Financial Protection and Innovation and Justice). The application (together with the fees payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation) must be filed in the Los Angeles office of the Department of ~~Business Oversight~~ Financial Protection and Innovation, located at 320 West 4th Street, Suite 750, Los Angeles, CA 90013.

1. a. Name of Applicant: _____

b. Fictitious Business Name: _____

c. Fictitious Business Name filed in the County of: _____

2. Applicant is organized and will do business as (check as applicable):

- an individual (a sole proprietor)
- a general partnership
- a limited partnership
- a corporation
- a limited liability company
- other (please specify such as joint venture, association, joint stock company, trust, unincorporated organization, government, or political subdivision of a government):

3. Applicant's proposed licensed place of business:

(Number and Street) (City) (County) (State) (Zip)

4. If the applicant is a sole proprietor, provide the following information:

a. The **FULL** first, middle-(if no middle name, so indicate) and last name of the sole proprietor.

(Name)

b. The **FULL** first, middle (if no middle name, so indicate) and last name, complete business address, telephone number, and e-mail address, if any, for each person(s) who will be in charge of the place of business.

(Name) (Telephone Number) (E-mail Address)

(Number and Street) (City) (State) (Zip)

c. If the applicant has listed a business location outside of California in Item Number 3, provide the **FULL** first, middle (if no middle name, so indicate) and last name, and complete address of an agent for service of process in California. If there is no authorized agent in California, so

indicate.

(Name)

(Number and Street) (City) (State) (Zip)

5. If the applicant is a general partnership or a limited partnership, provide the following information:

a. Applicant was organized on _____ in the State of _____.
(Date MM/DD/YYYY)

b. The **FULL** first, middle (if no middle name, so indicate) and last name, and complete business address for each general partner. Indicate if a general partner is a managing general partner by checking the corresponding box.

_____ Check here if a Managing Partner
(Name)

(Number and Street) (City) (State) (Zip)

c. The **FULL** first, middle (if no middle name, so indicate) and last name, complete business address, telephone number, and e-mail address, if any, for each person(s) who will be in charge of the place of business.

(Name) (Telephone Number) (E-mail Address)

(Number and Street) (City) (State) (Zip)

d. The **FULL** first, middle (if no middle name, so indicate) and last name for any other person responsible for the conduct of applicant's lending activity in this state.

_____ (Name) _____ (Name)

e. The **FULL** first, middle (if no middle name, so indicate) and last name for any person (individual,

other than those persons listed above, or entity) that owns or controls, directly or indirectly, 40% 10 percent or more of the outstanding interests of the applicant.

(Name) (Name)

~~Provide an organization chart with ownership percentages. Chart attached:~~ Yes No

f. If the applicant is a general partnership, provide the **FULL** first, middle (if no middle name, so indicate) and last name, and complete address of an agent for service of process in California. If there is no authorized agent in California, so indicate.

(Name)

(Number and Street) (City) (State) (Zip)

6. If the applicant is a corporation, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, government, or political subdivision of a government, provide the following information:

a. Applicant was organized on _____ in the State of _____.
(Date MM/DD/YYYY)

b. The **FULL** first, middle (if no middle name, so indicate) and last name, be given for each person named below. Complete all fields. If any title is not applicable, so indicate.

President/Chief Executive Officer:

Executive Vice President/Vice President:

(Name)

(Name)

Secretary:

Treasurer/Chief Financial Officer:

(Name)

(Name)

Directors:

(Name)

(Name)

Manager(s) [i.e., a managing member of an association, or a manager appointed or elected by the members of a limited liability company]:

(Name)

(Name)

Trustee(s):

(Name)

(Name)

c. The **FULL** first, middle (if no middle name, so indicate) and last name, complete business address, telephone number, and e-mail address, if any, for each person(s) who will be in charge of the place of business.

(Name)

(Telephone Number)

(E-mail Address)

(Number and Street)

(City)

(State)

(Zip)

d. The **FULL** first, middle (if no middle name, so indicate) and last name for any other person responsible for the conduct of applicant's lending activity in this state. Indicate if no other person is responsible.

(Name)

(Name)

e. The **FULL** first, middle (if no middle name, so indicate) and last name for any person (individual, other than those persons listed above, or entity) that owns or controls, directly or indirectly, 40% 10 percent or more of the outstanding equity securities of the applicant.

(Name)

(Name)

~~Provide an organization chart with ownership percentages. Chart attached:~~ Yes No

- 7.a. Has the applicant, any individual(s) or entity(s) required to be disclosed in response to Items 4 through 6 above, or any individual(s) or entity(s) disclosed in Exhibit M, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit within the last 10 years? Yes No

If yes, provide copies of all pertinent court documents relating to the action and complete the following:

Type of Action: Administrative Criminal Civil

Name of Regulator, Agency, or Plaintiff: _____

Nature of Charges: _____

Type of Resolution: _____

Date of Resolution or Settlement: _____

- 7.b. Has the applicant, any individual(s) or entity(s) required to be disclosed in response to Items 4 through 6 above, or any individual(s) or entity(s) disclosed in Exhibit M, at any time violated the California ~~Finance Lenders~~ Financing Law or regulations, or any similar regulatory scheme of California or a foreign jurisdiction? Yes No

If yes, provide copies of all pertinent court documents relating to the action and complete the following:

Type of Action: Administrative Civil

Name of Regulator, Agency, or Plaintiff: _____

Nature of Charges: _____

Type of Resolution: _____

Date of Resolution or Settlement: _____

8. Does the applicant conduct or intend to conduct any other business at the applicant's proposed licensed place of business (Item Number 3 above)? Yes No

If yes, describe any business being conducted or planned to be conducted on the applicant's premises in sufficient detail that will allow the Commissioner of Financial Protection and Innovation to find that the character of the other business is such that the granting of authority to conduct other business at a licensed location would not facilitate evasions of the California Financing Law or its rules and regulations. If the Commissioner of ~~Business Oversight's~~ Financial Protection and Innovation's authorization is not required because the products or services are of a supervised financial institution affiliated with the applicant, so indicate. ____

9. Provide the name, address, and telephone number of the bonding agent to whom the Department can direct questions regarding the surety bond required in Exhibit B below.

(Name of Bonding Agent)

(Telephone Number)

(Number and Street)

(City)

(State)

(Zip)

10. Complete the following as it applies to your proposed operations:

a. In the table below, mark the type of collateral and enter the corresponding minimum loan amount for commercial and consumer loans applicable to your proposed method of operation.

COMMERCIAL LOANS		CONSUMER LOANS	
Collateral Type (check <input checked="" type="checkbox"/> all that apply)	Minimum Loan Amount	Collateral Type (check <input checked="" type="checkbox"/> all that apply)	Minimum Loan Amount

<input type="checkbox"/> Real Property	\$	<input type="checkbox"/> Real Property	\$
<input type="checkbox"/> Personal Property	\$	<input type="checkbox"/> Personal Property	\$
<input type="checkbox"/> Unsecured	\$	<input type="checkbox"/> Unsecured	\$

Note: The minimum loan amount for a commercial purpose loan is \$5,000.00. A commercial purpose loan less than \$5,000.00 is treated statutorily as a consumer purpose loan. A consumer purpose loan collateralized by real property must be \$5,000.00 or more.

b. Provide ~~a short description~~ of the applicant's business plan, including ~~that includes any~~ information necessary for the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation to understand the type of business that the applicant plans to conduct under this license.

11. Has the applicant's offer and sale of securities been qualified in California?

Yes No

If no, check as applicable:

Applicant is exempt from ~~qualification~~, and qualification and has filed any applicable notice of exemption with the Department.

Applicant has never offered or sold its securities in California or to a California resident.

12. Provide the applicant's designated email account for communications from the Department of Financial Protection and Innovation: _____

13. Has the applicant registered online and designated a dedicated email address through the DFPI Self Service Portal at <https://docqnet.dfpi.ca.gov/> Yes No

REQUIRED EXHIBITS:

EXHIBIT A. Provide a balance sheet of the applicant prepared in accordance with generally accepted accounting principles and dated no more than 90 days prior to the date this application is filed. Label the balance sheet as Exhibit A.

EXHIBIT B. Provide the original surety bond, including riders and endorsements, in the amount of \$25,000. The instructions and bond form are enclosed.

EXHIBIT C. Provide for each individual (natural person) named in Items 4, 5, and 6, a Statement of Identity and Questionnaire, along with fingerprint information and the cost of fingerprint processing. The Statement of Identity and Questionnaire form is enclosed.

EXHIBIT D. SOLE PROPRIETOR ONLY: Complete the enclosed form entitled "Statement of Citizenship, Alienage, and Immigration Status ~~For~~for Application of Department of ~~Business Oversight~~ Financial Protection and Innovation License or Certificate."

EXHIBIT E. Complete the enclosed form entitled "Customer Authorization for Disclosure of Financial Records."

EXHIBIT F. Provide a copy of the current Fictitious Business Name Statement filed with the county clerk. Label the document as Exhibit F.

EXHIBIT G. ALL CORPORATE APPLICANTS INCORPORATED IN ANY STATE: Submit an original certificate of good standing or qualification executed by the Secretary of State of your state of incorporation, or other proper authority showing that the applicant is authorized to transact business in that state. The certificate must indicate the original date of incorporation. Label the document as Exhibit G.

EXHIBIT H. ADDITIONAL REQUIREMENT FOR APPLICANTS INCORPORATED IN STATES OTHER THAN CALIFORNIA (FOREIGN CORPORATION) ONLY: Submit an original certificate of good standing

or qualification executed by the California Secretary of State showing that the applicant is qualified to do business in California. Label the document as Exhibit H.

EXHIBIT I. GENERAL PARTNERSHIP APPLICANTS ONLY: Submit a copy of the original partnership agreement. Label the document as Exhibit I.

EXHIBIT J. APPLICANTS ORGANIZED IN ANY STATE AS A LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY: Submit an original certificate of good standing or qualification executed by the Secretary of State of your state of organization, or other proper authority showing that the applicant is authorized to transact business in that state. The certificate must indicate the original date of organization. Label the document as Exhibit J.

EXHIBIT K. ADDITIONAL REQUIREMENT FOR APPLICANTS ORGANIZED AS A LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY IN STATES OTHER THAN CALIFORNIA (FOREIGN BUSINESS ENTITY) ONLY: Submit an original certificate of good standing or qualification executed by the California Secretary of State showing that the applicant is qualified to do business in California. Label the document as Exhibit K.

EXHIBIT L. SOCIAL SECURITY NUMBER OR FEDERAL TAXPAYER IDENTIFICATION NUMBER: Provide the social security number if the applicant is an individual (sole proprietor) or the federal taxpayer identification number if the applicant is a business entity other than a sole proprietorship. Label the document as Exhibit L.

EXHIBIT M. ~~ORGANIZATION~~ ORGANIZATIONAL CHART: Provide an ~~organization~~ organizational chart with ownership percentages included. Identify by name and title the directors, officers, managing members, and partners, as applicable, for the applicant and each direct owner of 10 percent or more of the applicant. Label this document as Exhibit M.

EXECUTION SECTION: Complete and sign the enclosed declaration.

EXECUTION SECTION

In the matter of the Application for a License under the California ~~Finance Lenders~~ Financing Law, I, the undersigned, authorized to act on behalf of the applicant, declare that the following statements are true and correct:

1. That the applicant has obtained and read copies of the California ~~Finance Lenders~~ Financing Law (Division 9 of the California Financial Code) and the ~~Finance Company~~ California Financing Law Rules (Chapter 3, Title 10, California Code of Regulations) and is familiar with their content.
2. That the applicant agrees to comply with the requirements of the California ~~Finance Lenders~~ Financing Law, the rules adopted, and the orders issued by the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation.
3. That in the event of any change of its officers, directors, or any other persons named in this application, the applicant will file an amendment to the application containing the same information in relation to the new person(s) as is required in the application, within thirty days from the date of the change, with the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation.
4. That the applicant will file with the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation an amendment to this application prior to any material change in the information contained in the application for licensure, including, without limitation, Items 7, 8, and 10, and Exhibits C and M ~~the plan of operation~~.
5. That the applicant agrees to report any change of business location at least 10 days prior to the change.
6. That the applicant for a broker's license agrees that a license issued pursuant to the California

~~Finance Lenders Financing~~ Law does not provide the authority to broker loans to lenders that are not licensed as finance lenders as defined in Financial Code ~~Section~~ section 22009; that the applicant will maintain any license necessary to broker loans to a lender not licensed as a finance lender; loans will only be brokered to lenders licensed pursuant to the California Finance Lenders Law, and that a finance lenders may not pay compensation for brokerage services (i.e., brokerage commission, finder's fee, referral fees, etc.) to anyone not licensed as a broker under this ~~Division~~ division, except for those exempt persons as provided for in ~~Section~~ section 1451 of the ~~Rules~~ Department's regulations (Cal. Code Regs., tit. 10, ~~C.C.R.~~ § 1451).

7. For purposes of Financial Code ~~Sections~~ sections 22340 and 22600, when selling loans secured by real property to institutional investors, the applicant agrees that the source of funds will be exclusive of any funding advances from an institutional investor committed to purchasing the note. The practice commonly known as "table funding" is not permitted under the California ~~Finance Lenders Financing~~ Law.
8. That the applicant agrees that a license issued pursuant to the California ~~Finance Lenders Financing~~ Law permits only employees to work under the license. Persons engaged in lending that are not employees may need to obtain a license under the California ~~Finance Lenders Financing~~ Law.
9. That the applicant agrees that a license issued pursuant to the California ~~Finance Lenders Financing~~ Law does not permit a licensee to authorize locations operated by persons other than employees of the licensee under some form of franchise or license agreement (e.g., net branching).
10. That the applicant agrees to obtain a new license issued pursuant to the California ~~Finance Lenders Financing~~ Law for each additional location.

11. That the applicant agrees to comply with limitations on rates and charges for loans under the California Finance Lenders Financing Law.
12. That the applicant agrees to obtain the Commissioner of ~~Business Oversight's~~ Financial Protection and Innovation's approval prior to engaging in other business at a licensed location, unless that other business is providing products or services of an affiliated supervised financial institution.
13. That the applicant agrees that real estate may not be taken as security for a consumer loan of less than \$5,000.
14. That the applicant agrees that commercial loans of less than \$5,000 are treated as consumer loans under the law.
15. For high interest rate loans secured by real estate, that the applicant agrees to comply with the additional disclosure and consumer protection requirements of the Covered Loan Law and Regulation Z regarding high-cost mortgages and higher-priced mortgage loans (Financial Code Section 4970 et seq., Financial Code Section 4995 and Part 226 of Title 12 of the Code of Federal Regulations Fin. Code, § 4970 et seq.; Fin. Code, § 4995; 12 C.F.R. § 226 et seq.; 12 C.F.R. § 1026 et seq.).
16. That the applicant agrees to not share borrower information with third parties without obtaining the express written consent of the borrower, as required by the California Financial Information Privacy Act (~~Financial Code Section 4050 et seq.~~ Fin. Code, § 4050 et seq.).
17. That the applicant agrees to not charge interest on a consumer loan secured by real estate for more than one day prior to the date the loan proceeds are disbursed from escrow in accordance with Civil Code ~~Section~~ section 2948.5.
18. That the applicant will maintain adequate staff to meet the requirements of the California Finance

~~Lenders Financing Law~~, as prescribed by rule or order of the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation.

19. That the applicant agrees to maintain accounting records that meet generally accepted accounting principles and demonstrate a net worth of at least \$25,000 at all times.
20. That the applicant will file with the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation any report required by the Commissioner.
21. That the applicant agrees to maintain books and records sufficient to document compliance with the California ~~Finance Lenders Financing Law~~.
22. That the applicant will keep and maintain for 36 months from the date of final entry on any loan the business records and other information required by law or rules of the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation.
23. That the applicant will maintain a register of all loans made or brokered under this license that will be updated at least monthly, and that the information maintained in the register will include, at a minimum, the name and address of the borrower, account number, amount of loan, date of loan, terms, total of payments and the annual percentage rate, and that the register will also show the account number, name of borrower and payoff date of all loans paid in full.
24. That the applicant will submit to periodic examinations by the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation as required by the California ~~Finance Lenders Financing Law~~.
25. That the applicant agrees to pay for the costs of each examination.
26. That the applicant, if located outside of the State of California, agrees to make available to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation or the Commissioner's representatives, at a location in this state designated by the Commissioner of

~~Business Oversight~~ Financial Protection and Innovation, or the Commissioner's representatives, the books, accounts, papers, records and files within 10 calendar days of any request from the Commissioner; or to pay the reasonable expenses for travel, meals, and lodging of the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation or the Commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

27. That the applicant agrees to pay an annual assessment each year of a minimum of \$250 per location.
28. That the applicant agrees to file an annual report by March 15 of each year.
29. That the applicant agrees to maintain a surety bond of \$25,000 at all times.
30. That the applicant hereby attests that the applicant (including officers, directors, general partners, persons responsible for the applicant's lending activities in California and persons owning or controlling, directly or indirectly, ~~40%~~ 10 percent or more of the outstanding interests or outstanding equity securities of the applicant) has not engaged in conduct that would be cause for denial of a license. (Only one declaration required for each applicant.)
31. That, if applicable, the applicant will comply with the rules governing the filing of a fictitious business name as set forth in the Business and Professions Code, beginning at ~~Section~~ section 17900.
32. That the applicant will comply with the examination requirements concerning advertising pursuant to California Code of Regulations, title 10, section ~~Section~~ 1550.
33. By signing the application, the applicant hereby irrevocably appoints the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California, or the Commissioner's successor in office, to be the undersigned's attorney to receive service of any

lawful process in any noncriminal suit, action or proceeding against the undersigned, or the undersigned's successor, executor, or administrator which arises under the California ~~Finance Lenders~~ Financing Law or any rule or order thereunder after this consent has been filed, with the same force and validity as if served personally on the undersigned. For the purpose of compliance with the California ~~Finance Lenders~~ Financing Law of the State of California, notice of the service and a copy of process must be sent by registered or certified mail to the undersigned at the following address:

(Name)

(Number and Street) (City) (State) (Zip Code)

Indicate the name, title, address, telephone number, and e-mail address of the person who should be contacted for information regarding this application. The license will also be mailed sent to this person *unless otherwise instructed*.

Attention: _____
(Name) (Title) (Telephone Number)

(Number and Street) (City) (State) (Zip Code)

(Email Address)

WHEREFORE, applicant requests that a license be issued by the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation authorizing applicant to engage in business under the California ~~Finance Lenders~~ Financing Law within the State of California.

The applicant has duly caused this application to be signed on its behalf by the undersigned, thereunto

duly authorized. The undersigned, on behalf of the applicant, acknowledges that this application and all exhibits thereto which are not designated as confidential are subject to public inspection pursuant to California Code of Regulations, title 10, section 250.9.1 ~~Section 250.9.1, Chapter 3, Title 10, California Code of Regulations~~. A request for confidentiality of certain documents may be requested pursuant to ~~Section~~ section 250.10 of the rules. If a request for confidential treatment is granted (or denied), the person making such request will be notified in writing.

The undersigned also acknowledges on behalf of the applicant that the State Board of Equalization and the Franchise Tax Board are authorized to share taxpayer information with the Department of ~~Business Oversight~~ Financial Protection and Innovation, and in the event the state tax obligation is not paid by a licensee after a license is issued, the Department of ~~Business Oversight~~ Financial Protection and Innovation may be required to suspend the license (~~Business and Professions Code Sections~~ Bus. & Prof. Code, §§ 31, 494.5).

I declare under penalty of perjury under the laws of the State of California that I have read the foregoing application, including all Exhibits attached thereto, or filed therewith, and know the contents thereof, and that the statements therein are true and correct. **The signor of this declaration must be named in either Section 4, 5, or 6 of this application.**

(Applicant)

Executed at _____
(City, County, and State)

(Signature of Declarant)

Date _____

(Typed Name of Declarant)

(Title)

1422 - CFLL Application Long Form

STATE OF CALIFORNIA
DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION

INSTRUCTIONS FOR FILING OF SURETY BOND

EXHIBIT B

This exhibit contains the approved format for the Surety Bond as required by Financial Code ~~Section~~ section 22112. Every licensee is required to obtain and maintain a surety bond.

The original surety bond must be filed with an application and must include all of the following:

1. The signature of the attorney-in-fact for the surety company.
2. A notarized signature of the attorney-in-fact.
3. A power of attorney from the surety company.
4. Legal name of the licensee. Business name(s), if applicable, may also be included.
5. The signature of the licensee.
6. A notarized signature of the licensee.

BEFORE THE
DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION
OF THE STATE OF CALIFORNIA

EXHIBIT B

BOND OF FINANCE LENDER, BROKER, OR PROGRAM ADMINISTRATOR ~~AND/OR BROKER~~
FINANCIAL CODE SECTION 22112

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS:

That we _____, as Principal, whose address for service is _____, and _____, (Street Address, City, State and ZIP Code)

a corporation, created, organized and existing under and by virtue of the laws of the State of _____ and an admitted Surety insurer authorized to transact a general Surety business in the State of California, as Surety whose address for service is

_____, are held and firmly (Street Address, City, State and ZIP Code)

bound unto the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California, for the use thereof and for the use of any person or persons who may have a cause of action against the Principal under the provisions of the California ~~Finance Lenders~~ Financing Law and all laws amendatory thereof and supplementary thereto now and hereafter enacted, in the total aggregate penal sum of _____ Dollars (\$_____) (see ~~Financial Code~~

~~Section 22112~~ Fin. Code, § 22112), lawful money of the United States of America, to be paid to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California, or to any person or persons, for the use and benefit aforesaid, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

The condition of the above obligation is such that--

WHEREAS, The above-named Principal has made application to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California for a license to engage in business under and pursuant to the provisions of the California ~~Finance Lenders~~ Financing Law, and is required under the provisions of the California ~~Finance Lenders~~ Financing Law to furnish a bond in the sum above named, conditioned as herein set forth:

NOW, THEREFORE, The Principal, and any and all agents and employees representing the Principal, shall faithfully conform to and abide by the provisions of the California ~~Finance Lenders~~ Financing Law and all laws amendatory thereof and supplementary thereto now and hereafter enacted, and of all rules and regulations lawfully made by the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California under the California ~~Finance Lenders~~ Financing Law and shall honestly and faithfully apply all funds received and shall faithfully and honestly perform all obligations and undertakings under the California ~~Finance Lenders~~ Financing Law, and shall pay to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California and to any person or persons, for the use and benefit aforesaid, any and all moneys which become due or owing the State or to any such person or persons from the Principal under and by virtue of the provisions of the California ~~Finance Lenders~~ Financing Law.

This bond is subject to the following provisions:

1. That any person who sustains an injury covered by this bond may, in addition to any other remedy that he or she may have, bring an action in his or her own name upon this bond for the recovery of any damages sustained by him or her.

2. That the total aggregate liability of the Surety or sureties herein shall be limited to the payment of _____ Dollars (\$_____) (insert amount of the bond).

3. This bond may be canceled by the Surety in accordance with the provisions of ~~Sections~~ sections 996.320 and 996.330 of the Code of Civil Procedure of the State of California.

4. That, in the event either the Principal and/or the Surety under this bond are served with notice of any action commenced against the Principal or the Surety under the bond, the Principal and Surety as each is served with notice of action shall respectively and, within 10 days, give written notice of the filing of such action to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California, at the Los Angeles office of the Department of ~~Business Oversight~~ Financial Protection and Innovation.

5. That, in the event the Surety under this bond makes full or partial payment on this bond the Surety shall immediately give written notice of such full or partial payment to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation of the State of California, at the Los Angeles office of the Department of ~~Business Oversight~~ Financial Protection and Innovation.

6. That the effective date of this bond shall be _____.

Signature of Principal

Typed or Printed Name of Principal

Executed at (City and State)

I certify (or declare) under penalty of perjury under the laws of the State of California that I have executed the foregoing bond under an unrevoked power of Attorney.

Executed in _____ on _____
(City and State) (Date)

Signature of Attorney-in-Fact
for Surety

Printed or typed name of
Attorney-in-Fact for Surety

ALL OF THE ABOVE SIGNATURES MUST BE NOTARIZED

DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION

STATE OF CALIFORNIA

EXHIBIT C

File Number, if any

Licensee (Company Name)

Insert Department of ~~Business Oversight~~ Financial Protection and Innovation file number, if any, and the name of the licensee (company) to which this Statement of Identity and Questionnaire relates.

STATEMENT OF IDENTITY AND QUESTIONNAIRE

Legal Full Name _____
First Name Middle Name Last Name

(Do not use initials or nicknames)

Position to be filled in connection with the preparation of this questionnaire (e.g., Officer, Director, Manager, etc.).

Sex _____ Hair _____ Eyes _____ Height _____ Weight _____

Birthdate _____ Birthplace _____

Insert Full Name
of Individual: _____

Insert Licensee
(Company Name): _____

Social Security Number _____

California Driver's License Number _____

See Commissioner's Release 2-G regarding (if none, so state) _____

whether furnishing the social security number
is mandatory or voluntary and for a description
of the use made of that information.

Residence
Phone Number _____

Business
Phone Number _____

Email
Address _____

Hours of ~~Employment~~ Employment
(e.g., 8:00 a.m. to 5:00 p.m.) _____

1. Residence addresses for the last 10 years:

From	To	Street	City	State	Zip
	Present		Code		

Attach separate schedule if space is not adequate.

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

Insert Full Name
of Individual: _____

Insert Licensee
(Company Name): _____

Attach separate schedule if space is not adequate.

3. a. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

Yes No

If the answer is "Yes", give details:

Attach a copy of any order, judgment or decree.

- b. Are you currently, or have you been within the last ten years, under federal, state or local investigation for possible violation of any law, ordinance, or licensing or regulatory scheme?

Yes No

If the answer is "Yes", give details:

4. a. Are you currently licensed to engage in financial business in this state or any other state?

Yes No

Financial business means securities broker-dealer or agent, investment adviser or investment adviser representative, financial planner, insurance agent, escrow agent, finance lender or broker, mortgage lender or servicer, real estate broker, payday lender, financial institution, bill payer or prorater, commodity sales person, certified public accountant, or any other business

Insert Full Name
of Individual: _____

Insert Licensee
(Company Name): _____

involving investment or financial transactions.

If the answer is "Yes", describe in the chart below the following for each license:

License Period	License Number	Type of License/Business	Name and Address of Licensing Entity
From: To:			
From: To:			

Attach separate schedule if space is not adequate.

b. Have you ever been refused a license to engage in any business in this state or any other state, or has any such license ever been suspended, revoked, or surrendered subject to a settlement, or any other similar action?

Yes No

If the answer is "Yes", give details:

Attach a copy of any settlement.

5. Have you ever been convicted of or pleaded nolo contendere to a misdemeanor or felony other than minor traffic citations that do not constitute a misdemeanor or felony offense?

"Convicted" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction

Insert Full Name
of Individual: _____

Insert Licensee
(Company Name): _____

has been sealed under ~~Section~~section 1203.45 of the California Penal Code or ~~Section~~section 781 of the California Welfare and Institutions Code.

Yes No

If the answer is "Yes", give details:

Attach a copy of any order, judgment or decree. If a conviction was entered under ~~Section~~section 23152(a) of the Vehicle Code, attach a written declaration stating whether drugs were involved.

6. Have you ever been a defendant in a civil court action other than divorce, condemnation or personal injury?

Yes No

If the answer is "Yes", ~~please~~ complete the following:

Date of suit _____ Location of court _____

Nature of suit _____

Attach a copy of any order, judgment or decree.

7. Have you ever been a subject of a bankruptcy or a petition in bankruptcy?

Yes No

If the answer is "Yes", give date, title of case, location of bankruptcy filing:

8. Have you ever been refused a bond, or have you ever had a bond revoked or canceled?

Yes No

If the answer is "Yes", give details:

Insert Full Name
of Individual: _____

Insert Licensee
(Company Name): _____

9. Have you ever changed your name ~~including a woman's maiden name~~, including subsequent to marriage, or ever been known by any name other than that herein listed?

Yes No

If so, explain. Change in name through marriage or court order and exact date of each name change must be listed.

Prior Name

Date of Name Change

10. Have you ever done business under a fictitious firm name either as an individual or in any form of business, e.g., partnership, limited liability company, corporation or other?

Yes No

If the answer is "Yes", give details:

The following questions must be answered by all persons submitting this questionnaire in connection with an ESCROW AGENT'S LICENSE.

11. In what capacity will you be employed? _____

(e.g., Clerk, Escrow Officer, Manager, Officer, Director, etc.)

12. Do you expect to be a party to, or broker or salesman in connection with escrows conducted by the escrow company which is employing you?

Yes No

If the answer is "Yes", give details:

Insert Full Name
of Individual: _____

Insert Licensee
(Company Name): _____

This statement will be considered confidential information and will be filed and maintained as part of the confidential records not subject to public inspection.

VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement of Identity and Questionnaire; that I have read and signed said Statement of Identity and Questionnaire and know the contents thereof, including all exhibits attached thereto, and that the statements made therein, including any exhibits attached thereto, are true, and that I have not omitted any information needed to make this document true.

This verification may be made either before a Notary Public or as a declaration under penalty of perjury. This form **MUST** be executed before a Notary Public if it is executed **OUTSIDE** the State of California.

I certify/declare under penalty of perjury that the foregoing is true and correct.

Executed at _____
(City)

(County) (State)

this ____ day of _____, 20 ____.

(Print Name)

(Signature of Individual)

State of _____)

County of _____)

Date _____, 20 ____

at _____

(Signature of Individual)

Subscribed and sworn to before me

_____, 20 ____

Notary Public in and for said County and State

STATE OF CALIFORNIA

DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION

INSTRUCTIONS FOR CUSTOMER AUTHORIZATION
FOR DISCLOSURE OF FINANCIAL RECORDS FORM

Enclosed is a Customer Authorization for Disclosure of Financial Records form. The Commissioner of ~~Business Oversight~~ Financial Protection and Innovation is authorized to require such authorization from licensees and other persons pursuant to the authority cited in Financial Code ~~Section~~ section 22156.

The form must be properly executed and submitted to the Department of ~~Business Oversight~~ Financial Protection and Innovation.

If additional authorization forms are needed, they may be obtained from any office of the Department of ~~Business Oversight~~ Financial Protection and Innovation or the Department's website (www.dbodfpi.ca.gov), or an accurate copy of the form may be used by applicant.

STATE OF CALIFORNIA

DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND INNOVATION

CUSTOMER AUTHORIZATION FOR DISCLOSURE OF
FINANCIAL RECORDS

EXHIBIT E

Pursuant to Financial Code ~~Section~~ section 22156 and Government Code ~~Section~~ section 7473, any financial institution, wherever situated, possessing financial records of

(Name of Applicant as appears on Application)

Licensed under the CALIFORNIA ~~FINANCE LENDERS~~ FINANCING LAW

is hereby authorized to disclose to the California Department of ~~Business Oversight~~ Financial Protection and Innovation records of the above-named business licensed under the above-described Act, whether such records relate to accounts which have been closed, accounts which are currently maintained, or accounts which are hereafter established.

This authorization is effective as of the date of execution and shall remain effective until five years after the expiration or revocation of the above-named business licensed under the above-described Act, including renewals of such license.

This authorization may not be revoked.

The terms used in this authorization shall have the definitions contained in the California Right to Financial Privacy Act (~~Government Code Section~~ Gov. Code, § 7460 et seq.), and the California ~~Finance Lenders~~ Financing Law (~~Financial Code Section~~ Fin. Code, § 22000 et seq.).

The above-named licensee has duly caused this authorization to be signed on its behalf by the undersigned, thereunto duly authorized.

Executed on _____ at _____
(Provide date and city where executed)

(Name of Licensee)

By _____
(Signature)

(Title)

NOTE: Authority cited: Section 22150, Financial Code. Reference: Sections 31 and 494.5, Business and Professions Code; Section 2106, Corporations Code; Sections 331, 331.5, 22000, 22050, 22100, 22100.5, 22101, 22101.5, 22102, 22103, 22104, 22105, 22106, 22107, 22108, 22109, 22112, 22153, 22154, 22157, and 22159, Financial Code.

§ 1422.4. Electronic Filings.

(a) DESIGNATION: The Commissioner designates the Nationwide ~~Mortgage Multistate~~ Licensing System (NMLS) owned and operated by the State Regulatory Registry LLC (SRR), a wholly-owned subsidiary of the Conference of State Bank Supervisors (in cooperation with the American Association of Residential Mortgage Regulators) to receive and store filings, obtain fingerprints, obtain credit reports, and collect related fees from applicants and ~~state-licensed~~ program administrators, ~~mortgage lenders, mortgage brokers, mortgage lenders and brokers~~ finance companies, and mortgage loan originators on behalf of the Commissioner.

(b) USE OF NMLS:

(1) All program administrator, mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator applications, amendments, reports, notices, related filings, renewals, authorizations, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as otherwise indicated in ~~Subchapter~~ subchapter 6 of these rules.

(2) For all finance lenders and brokers applying for licensure on or after July 1, 2021, all applications, amendments, reports, notices, related filings, renewals, authorizations, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as otherwise indicated in this subchapter.

(3) For all finance lenders and broker licensees not currently on NMLS, on or before December 31, 2021, the licensee shall transition onto NMLS by filing an application in NMLS in accordance with section 1422.5 of these rules. After the licensee

has transitioned onto NMLS, all applications, amendments, reports, notices, related filings, renewals, authorizations, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as otherwise indicated in this subchapter.

(c) The following conditions relate to such electronic filings:

(1) Electronic Signature: When a signature or signatures are required by the particular instructions of any filing, including any attestation to be made through NMLS, a duly authorized officer or proper delegate of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate field and submitting the filing to NMLS. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

(2) When filed: Solely for purposes of a filing made through NMLS, unless otherwise specified, a document is considered filed with the Commissioner when all fees are ~~received~~ received, and the filing is transmitted by NMLS to the Commissioner.

(3) An applicant shall provide through NMLS the necessary authorizations so that NMLS may obtain independent credit reports, fingerprinting and criminal background checks.

(4) Any document required to be filed with the Commissioner that is not permitted to be filed with or cannot be transmitted through NMLS shall be filed ~~in paper form~~ directly with the Commissioner.

Note: Authority cited: Sections 22100 and 22150, Financial Code. Reference: Section 1633.7, Civil Code; and Sections 22012, 22014, 22100, 22100.5, 22101, 22105.1 and 22105.2, Financial Code.

§ 1422.4.5. Request for Confidential Treatment

A mortgage lender, broker, mortgage lender and broker, program administrator, and mortgage loan originator applicant may request that certain documents, or parts thereof, be treated confidentially. A request for confidentiality shall be in writing and made pursuant to ~~Section~~ section 250.10 of Article 1 of Subchapter 1 of these rules. If a request for confidential treatment is granted or denied, the person making such request will be notified in writing.

Note: Authority cited: Sections 22105.3 and 22150, Financial Code. Reference: Section 1798.24, Civil Code; and Sections 22105.1, 22105.3 and 22105.4, Financial Code.

§ 1422.5. License Application through NMLS for Mortgage Lenders, Mortgage Brokers, and Mortgage Lenders and Brokers.

The procedures set forth in this section are applicable to any person ~~a mortgage lender, mortgage broker, and mortgage lender and broker~~ that is required to be licensed under ~~Section~~ section 22100, subdivision (a), or section 22100.5 of the Code, and that is required to use NMLS under section 1422.4 of these rules. Except as otherwise provided in ~~Subchapter~~ subchapter 6 of these rules, a ~~mortgage lender, mortgage broker, and mortgage lender and broker~~ are person subject to the requirements of this section ~~and are~~ is not subject to the requirements of ~~Section~~ section 1422 of

~~Subchapter 6~~ of these rules.

(a) INITIAL APPLICATION: The application for a license ~~as a mortgage lender, broker, or mortgage lender and broker~~ under subdivision (a) of ~~Section~~ section 22100 of the Code ~~or section 22100.5 of the Code~~, and any amendment to such application under ~~Section~~ section 1409.1 of ~~Subchapter~~ subchapter 6 of these rules, shall be filed upon Form MU1 (~~Uniform Mortgage Lender/Mortgage Broker~~ NMLS Company Form) ~~and any exhibits~~, in accordance with the instructions of NMLS for transmission to the Commissioner. All exhibits and supporting documents related to the application or amendment shall also be filed with NMLS, in accordance with the instructions of NMLS, for transmission to the Commissioner. Exhibits that cannot be submitted through NMLS shall be submitted directly to the Commissioner. The notices set forth in ~~Section~~ section 1422.7 of ~~Subchapter 6~~ of these rules are part of every application. An applicant shall provide the following information, exhibits and documentation in the manner provided:

(1) An applicant shall identify all fictitious business names on Form MU1.

(A) For each fictitious business name, an applicant shall ~~submit directly to the Commissioner~~ upload to NMLS a copy of the Fictitious Business Name Statement bearing the seal of the county clerk.

(B) An applicant may not use a fictitious business name until the Commissioner approves the use of the name. An applicant may not permit a mortgage loan originator sponsored by the applicant or a branch office to use any name not approved by the Commissioner.

(C) Every applicant and licensee shall comply with the rules governing the filing of a fictitious business name set forth in Business and Professions Code ~~Section~~

section 17900-17930 et seq.

(2) For every additional business location, an applicant shall obtain a branch office license in accordance with ~~Section~~ section 1424 of Subchapter 6 of these rules.

(3) (A) An applicant shall provide the names, personal history, and experience of individual applicants, officers, directors, managing members (in the case of a limited liability company), general and managing partners (in the case of a partnership), and individual control persons (both direct and indirect) of the applicant through NMLS on Form MU1 within the ~~“Directors~~ Direct Owners and Executive Officers” and “Indirect Owners” sections, as applicable, and on Form MU2. For purposes of this section, an individual control person shall include (i) an individual who owns 10 percent or more of the outstanding interests or the outstanding equity securities of the applicant, and (ii) an officer, director, managing member, or partner of an entity who owns 10 percent or more of the outstanding interests or the outstanding equity securities of the applicant, if that individual is responsible for the day-to-day business decisions related to the applicant’s lending activities or PACE program administration activities in this state.

(B) An applicant shall provide the names, personal history, and experience of the individuals in charge of each place of business through NMLS on Form MU1 within the “Qualifying Individuals” section and on Form MU2.

~~(A)~~ 1. The named individuals in Form MU1, for whom a Form MU2 has been filed, shall provide authorization for, and subsequent delivery of, fingerprints to NMLS or the California Department of Justice, or both, as applicable.

~~(B)~~ 2. An applicant shall pay all fees required for the criminal history background check.

(C) Under section 8 of Form MU2, a credit report is not required for the individuals submitting the form.

(4) An applicant shall submit through NMLS as an exhibit to Form MU1 financial statements prepared in accordance with generally accepted accounting principles and acceptable to the Commissioner, that includes applicant's fiscal year end date.

(A) The balance sheet shall be dated no more than 90 days before the date that the application is submitted to the Commissioner through NMLS.

(B) The financial statements shall document the required minimum tangible net worth in accordance with ~~Section~~ section 22104 of the Code. An applicant who employs one or more mortgage loan originators must meet and maintain a minimum net worth of \$250,000 at all times, and all other applicants shall maintain a minimum net worth of at least \$25,000 at all times.

(5) An applicant shall submit directly to the Commissioner a Customer Authorization of Disclosure of Financial Records form (Exhibit E (~~Rev. 9/07~~)) to the application for license as a finance lender or broker in ~~Section~~ section 1422 of ~~Subchapter 6~~ of these rules), and maintain a copy in the applicant's books and records as provided in ~~Section~~ section 22156 of the Code. This authorization is effective as of the date of execution and shall remain effective until five years after the suspension, surrender, or revocation of the ~~mortgage lender or broker~~ license. The authorization may not be revoked.

(6) In addition to the identification of business activities requested on Form MU1, an applicant shall submit to NMLS a detailed description of the applicant's business plan activities ~~directly to the Commissioner~~.

(A) For persons engaged in the business of making or brokering loans, the business plan must at a minimum provide the following information, as applicable to the lending activity of the applicant:

1. The intended sources of capital.
2. The intended market for the loans, including the credit worthiness of intended borrowers.
3. The intended methods for marketing the loans.
4. The anticipated terms of the loans.
5. The methods for disbursing funds to the borrower.
6. Any products or services offered or required in connection with the loans.
7. Any cobranding or joint agreements with other organizations related to the making of the loans.
8. Whether the applicant intends to retain or sell the loans, in whole or in part, and the intended purchasers, if applicable.
9. Whether any other business is solicited or engaged in at the same place as the proposed lending activity.
10. Whether, and to what extent, the applicant intends to use third parties to perform any of its lending functions, such as marketing, underwriting, servicing, or any other functions.

(B) For persons engaged in the business of administering a PACE program, the business plan must at a minimum provide the following information:

1. The intended sources of capital.

2. The intended market for the PACE financing, including the credit worthiness of intended property owners.
3. The intended methods for marketing the assessment contracts.
4. The anticipated terms of the assessment contracts.
5. The methods for disbursing funds for the efficiency improvements.
6. Any products or services offered or required in connection with the assessment contracts.
7. Whether any other business is solicited or engaged in at the same place as the proposed financing activity.
8. A description of the arrangements with public agencies for the administering of the PACE programs.
9. Whether the applicant will be purchasing the bonds from a public agency, and if so, whether these bonds will be retained or sold.

If an applicant answers yes to either question (7)(A) or (7)(B) of Form MU1,

(7) (A) If the applicant is owned by another entity(s) or individual(s), ~~or has subsidiaries or affiliated entities,~~ the applicant must also submit to NMLS an organizational chart identifying each entity or individual owning or controlling 10 percent or more of the outstanding interests or equity securities of the applicant and ~~is~~ the entity or owner's percentage of ownership in the applicant. Upon request, the applicant shall provide a chart identifying subsidiaries and affiliated entities.

(B) ~~The~~ Upon request, the organizational chart shall identify the principal officers, directors, managing members, general partners, and trustees, as applicable, for each entity owning or controlling 10 percent or more of the outstanding interests or

outstanding equity securities of the applicant.

(8) An applicant shall submit to NMLS a management chart displaying the applicant's directors, officers, and managers, including individual names and titles.

~~(7)~~ (9) An applicant shall submit directly to the Commissioner evidence of the surety bond required by section 22112 of the Code through NMLS, utilizing the NMLS electronic surety bond function and form, in accordance with Section section 1437 of Subchapter 6 of these rules.

~~(8)~~ (10) If an applicant intends to engage in any activity not specified in Items 4 and 5 of Form MU1, the applicant shall submit this information directly to the Commissioner.

~~(9)~~ (11) A business entity applicant shall submit upload the following documents directly to NMLS for transmission to the Commissioner:

(A) A corporate applicant shall ~~submit an original~~ upload a certificate of qualification or good standing from the California Secretary of State executed not more than sixty days before the filing of the application. The certificate must show that the applicant is authorized to transact business in the State of California.

(B) A foreign corporation shall ~~submit an original~~ upload a certificate of qualification or good standing from the Secretary of State of the state of incorporation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(C) A partnership applicant shall ~~submit~~ upload its partnership agreement.

(D) A limited partnership or limited liability company applicant shall ~~submit an original~~ upload a certificate of qualification or good standing from the California

Secretary of State executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in the State of California.

(E) A foreign limited partnership or limited liability company applicant shall ~~submit an original~~ upload a certificate of qualification or good standing from the Secretary of State of the state of formation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in that state.

~~(F) Each~~ Upon request, a business entity applicant shall upload to NMLS a state-certified copy of its formation documents, including, if requested, any subsequent amendments, relevant resolutions, and a list of any name changes.

~~(10) (12)~~ Every applicant shall provide a registered agent for service of process in ~~item 2(A) of Form MU1~~ that is located within the state of California in the “Resident/Registered Agent” section of Form MU1.

~~(11) (13)~~ An applicant shall provide its website information through NMLS on Form MU1.

~~(12) (14)~~ The individual attesting to the filing of the Form MU1 must be a duly authorized individual who has submitted a Form MU2, or who has been delegated to attest to the filing by an individual who has submitted a Form MU2. The attestation provided pursuant to this paragraph shall constitute an agreement to comply with the requirements of the California ~~Finance Lenders~~ Financing Law.

(15) An applicant shall submit an Execution Section as set forth in the California Financing Law license application in subdivision (c) of section 1422 of these rules, executed in accordance with the instructions in that section.

(16) An applicant shall establish a designated email address by registering for

a DFPI Self-Service Portal Account through the Department of Financial Protection and Innovation's website at www.dfpi.ca.gov. The email account shall be established and monitored in accordance with the requirements in Financial Code section 331.5 and Item Number 12 of the California Financing Law Application in subdivision (c) of section 1422 of these rules. The email address shall be provided directly to the Commissioner.

(b) FILING FEE: Pursuant to ~~Section~~ Financial Code section 22103 of the ~~Financial Code~~, application fees (\$200), investigation fees (\$100) and fingerprint processing fees (\$20 per set to the Department of ~~Corporations~~ Financial Protection and Innovation, plus Department of Justice and Federal Bureau of Investigation fees, as applicable) related to the fingerprint and criminal background checks, shall be paid through NMLS for transmission to the Commissioner. The payment of fingerprint processing fees shall be filed directly with the Commissioner until such time as the NMLS can accept the fee. Fees are not refundable.

(c) COMPLETION OF FILING and ISSUANCE OF LICENSE: An application for licensure ~~as a mortgage lender, mortgage broker, or mortgage lender and broker~~ submitted through NMLS is not deemed complete until all required fees, all required submissions, and all background and investigative reports are received by the Commissioner. In accordance with ~~Section~~ section 22109(b), the Form MU1 application may be considered withdrawn if the Commissioner does not receive the requested information contained in any written notification of a deficiency within 90 days of the notification.

(d) FILING AN AMENDMENT: In the event of a change to the information in the application, or exhibits thereto, the ~~mortgage lender, mortgage broker, or mortgage~~

lender and broker applicant or licensee shall file an amendment to the Form MU1, MU2, or MU3 through NMLS in accordance with the procedures in ~~Section~~ section 1409.1 of Subchapter 6 of these rules. Prior to the issuance of a license, any amendment to an application shall be filed within five (5) days. Any change that cannot be reported through NMLS shall be reported directly to the Commissioner.

(e) EXISTING LICENSEES TRANSITIONING ONTO NMLS: A licensee transitioning onto NMLS is not required to file the following items, if already on file with the Commissioner, unless 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 Form 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, except that a licensee transitioning to NMLS shall provide an updated business plan if 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.

(10) An Execution Section as set forth in the California Financing Law license application in subdivision (c) of section 1422 of these rules.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 17900, 17910, 17913 and 17926, Business and Professions Code; Section 1798.17, Civil Code; Section 7473, Government Code; Sections 331.5, 22000, 22100, 22100.5, 22101, 22101.5, 22102, 22103, 22104, 22105, 22105.2, 22106, 22107, 22108, 22109.6, 22112, 22153, 22154, 22156, 22157, 22159 and 22170, Financial Code; Section 17520, Family Code; and Section 11077.1, Penal Code.

§ 1422.5.1. License Application Requirements for Program Administrators

(a) In addition to the requirements for a license application set forth in section 1422.5 of these rules, a program administrator shall submit the following to the Commissioner.

(1) A copy of each central administration agreement between the applicant and a public agency that authorizes the applicant to administer a PACE program on behalf of the public agency.

(2) A copy of the standard agreement template for agreements with PACE solicitors and PACE solicitor agents, which shall be received in confidence in accordance with paragraph (d)(4) of Government Code section 6254.

(3) A copy of the standard agreement template for assessment contracts with property owners. If the contracts vary by public agency, submit a copy for each public agency.

(4) A completed PACE Program Administrator Application Request for Information form, signed by an officer with authority to sign on behalf of the program administrator, as follows:

STATE OF CALIFORNIA
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

PACE PROGRAM ADMINISTRATOR APPLICATION
Request for Information

NAME OF APPLICANT _____

Applicants for a PACE program administrator license must answer the following questions.

1. Will you develop and implement policies and procedures for responding to questions and addressing complaints of property owners, in compliance with Financial Code section 22683 and any currently operative rules of the Commissioner?

Yes _____ No

2. Will you maintain a process for enrolling PACE solicitors and PACE solicitor agents in compliance with Financial Code section 22680 and any currently operative rules of the Commissioner?

Yes _____ No

3. Will you comply with the requirement in Financial Code section 22684 that prohibits a program administrator from executing an assessment contract unless the criteria in that section are met?

Yes _____ No

4. Will you comply with the requirement in Financial Code section 22686 that prohibits a program administrator from executing an assessment contract unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment, in accordance with Financial Code section 22687?

Yes _____ No

5. Will you comply with the requirements in sections 5898.16 and 5898.17, and chapter 29 of part 3, division 7 of the Streets and Highways Code, including section 5913, which requires a program administrator to make an oral confirmation with a property owner of the key terms of an assessment contract?

Yes _____ No

6. Will you establish and maintain a training program for PACE solicitor agents that includes introductory training and a test as required by subdivision (a) of Financial Code section 22681, and six hours of education on the topics set forth in that section?

Yes _____ No

The training program in question 6 shall be submitted to the Commissioner upon request and will be received in confidence in accordance with Government Code section 6254, subdivision (d)(4).

A program administrator may use a training program containing the elements required by statute and regulation. If the Commissioner determines that the program fails to contain the elements required by statute and regulation, the Commissioner shall disapprove the continued use of the training program. The disapproval of a training program shall not affect the enrollment status of a PACE solicitor agent who has already completed the training program, but the Commissioner may require revised training materials be provided to PACE solicitor agents for any segment of training determined to be materially deficient because it fails to comply with the law, is misleading, or is inaccurate.

The above-named applicant has authorized the undersigned to sign on its behalf.

I, the undersigned, have read this Request for Information and understand the contents of the Request for Information, and certify that the statements in the Request for Information are true and correct.

Executed at _____, on this _____ day of _____, 20____.
(City and State)

Signature

Name of Signatory

Title

(b) An applicant or licensee shall provide the Commissioner with the original of any document uploaded to NMLS upon request and shall maintain the original signed document in its books and records as provided in section 1620.07 of these rules.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22100.5, 22101, 22680, and 22681, Financial Code.

§ 1422.6.2. Evidence of Financial Responsibility

(a) The Commissioner's finding required by ~~Section~~ section 22109.1, subdivision (c) of the California ~~Finance Lenders~~ Financing Law relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator.

(b) An applicant for a mortgage loan originator license shall authorize NMLS to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the electronic application form, in order to support the Commissioner's finding required by ~~Section~~ section 22109.1, subdivision (c) of the California ~~Finance Lenders~~ Financing Law.

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:

(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or

mishandling of trust funds, or

(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22109.1, Financial Code.

§ 1422.7.1. Statement of Citizenship, Alienage, and Immigration Status

Any individual (e.g. sole proprietor or mortgage loan originator) who is applying for any license under the California ~~Finance Lenders~~ Financing Law shall file the Statement of Citizenship, Alienage, and Immigration Status and any accompanying documentation directly with the Commissioner in accordance with ~~Sections~~ sections 250.60 and 250.61 of Article 5 of Subchapter 1 of these rules.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22101, Financial Code; and 8 U.S.C. Sections 1621, 1641 and 1642.

§ 1422.9. Effectiveness of License for Licensee on NMLS ~~Mortgage Lender, Mortgage Broker, Mortgage Lender and Broker, and Mortgage Loan Originator Licenses.~~

(a) A license as a ~~mortgage lender, mortgage broker, or mortgage lender and broker~~ under subdivision (a) of section ~~Section~~ 22100 or section 22100.5 of the Code ~~continues in effect~~ is effective until it is revoked or suspended by the Commissioner, or surrendered by the ~~mortgage lender, mortgage broker, or mortgage lender and broker~~ licensee and the surrender has been accepted by the Commissioner pursuant to ~~Section~~ section 1422.10 of Subchapter 6 of these rules.

(b) A license as a mortgage loan originator under ~~Section~~ section 22100 of the Code shall be renewed on an annual basis in accordance with ~~Section~~ section 1422.6.3 of ~~Subchapter 6~~ of these rules. The license shall be in effect for the calendar year unless revoked, suspended, or surrendered.

Note: Authority cited: Sections 22100 and 22150, Financial Code. Reference: Section 22109.6 and 22700, Financial Code.

§ 1422.10. Surrender of License Through NMLS as a Mortgage Lender, Mortgage Broker or Mortgage Loan Originator.

(a) A licensee on NMLS shall file an ~~An~~ application to surrender a license as a mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator shall be filed on Form(s) MU1, MU3, and MU4 through NMLS in accordance with its procedures for transmission to the Commissioner. Upon approval of the surrender by the Commissioner, a licensee that sponsors one or more mortgage loan originator shall ~~amend every branch office application Form MU3~~ and terminate the sponsorship of all mortgage loan originators.

(b) To surrender a branch office license, a licensee shall file an amendment to Form MU3 in accordance with the instructions on the form for surrendering a branch office license.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22107, ~~and 22108,~~ and 22700, Financial Code.

§ 1422.12. Challenge Process for Information Entered Into NMLS

(a) If an applicant or licensee disputes the accuracy or completeness of any material

information entered into and maintained by NMLS, the applicant or licensee may submit a written request to the Commissioner to the attention of the Special Administrator, California Finance Lenders Financing Law, Department of Corporations Financial Protection and Innovation, 320 West 4th Street, Suite 750, Los Angeles, CA 90013-2344. For purposes of this section, a "licensee" includes a mortgage loan originator.

(b) The request shall include the applicant or licensee's name, unique identifier, a statement of the alleged inaccuracy or incompleteness of the information entered into NMLS, and its materiality, and shall provide any proof or corroboration available, including copies of official documents or court orders that support the changes requested by the licensee or applicant.

(c) Upon receipt of the request, the Commissioner shall investigate the request, along with any information provided, and determine if the information entered into NMLS is correctly reflected.

(d) If the Commissioner determines that the information is materially incorrect, the Commissioner shall request that the NMLS record be corrected.

(e) If the Commissioner denies the allegations of material inaccuracy or incompleteness in the NMLS record, the Commissioner shall notify the licensee or applicant in writing.

(f) Within 30 days from the mailing or service of the notification, the person may request a hearing under the Administrative Procedure Act (Gov. Code, § 11500 et seq. Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code) for a determination of whether material inaccuracy or

incompleteness exists in the record.

(g) If a material inaccuracy or incompleteness is found in any record, within 30 days of notice of the finding the Commissioner shall request that NMLS correct the information.

(h) Judicial review of the decision shall be governed by ~~Section~~ section 11523 of the Government Code.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22105.2, Financial Code.

§ 1423. Short Form Application for Licensees Seeking Additional Location

License; Form

(a) Except as provided in section 1424 of these rules, the ~~The~~ application for a licensee seeking an additional location license pursuant to Financial Code section 22102, subdivision (b) ~~Section 22102(b)~~ shall be filed upon the form set forth in subdivision (b) of this section. An applicant under this section must currently hold a valid finance lender or broker license pursuant to Financial Code ~~Sections~~ sections 22100 and 22101.

(b) An application for a licensee as set forth in subdivision (a) shall be submitted to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation on the following form:

STATE OF CALIFORNIA
DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND
INNOVATION

INSTRUCTIONS FOR COMPLETING
THE SHORT FORM APPLICATION FOR A LICENSE
UNDER THE CALIFORNIA ~~FINANCE LENDERS~~ FINANCING LAW (CFL, CFL)
ASSISTANCE WITH THE APPLICATION

Refer to these instructions while completing the ~~CFL, CFL~~ short form application. If you have questions about the application that are not answered by these instructions, call the Department of ~~Business Oversight's~~ Financial Protection and Innovation's toll-free telephone number at 4-(866) 1-866-275-2677. Department personnel cannot provide individual legal or accounting advice. Applicants who need such advice must consult a qualified professional.

FEEES AND PROCESSING OF THE APPLICATION

The application and any attachments must be typewritten. The signature must be original and not a copy. Attach additional sheets if you need more space to complete an answer to any of the questions and label the answers by the corresponding question number. Answer every question in the application.

A ~~CFL, CFL~~ licensee seeking to engage in business at an additional location must submit this application to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation by certified mail, return receipt requested, at least 10 days before

engaging in business at the location.

The application must be accompanied by a nonrefundable application fee of \$ 200 and an investigation fee of \$ 100. The application fee and investigation fee are not refundable if the application is denied or withdrawn.

Make the check payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation for the total amount of all fees. The application, attachments, and fees must be filed only in the Los Angeles office of the Department of ~~Business Oversight~~ Financial Protection and Innovation, located at 320 West 4th Street, Suite 750, Los Angeles, California 90013.

THE ~~CFL~~ CFL SHORT FORM APPLICATION

The headings used in these instructions correspond to the item numbers in the application.

ITEM NUMBER 1 OF APPLICATION:

Name of Applicant:

Provide the applicant's legal name. Some foreign entities are required by the California Secretary of State's office to use an assumed name for all business they conduct in California. These entities should provide that assumed name as the "Name of Applicant" and may only use that name. These entities are not permitted to use a fictitious business name.

Fictitious Business Name:

An applicant that intends to conduct ~~CFL~~ CFL business under a fictitious business

name that is different from its legal name should provide the fictitious business name here. Provide the name that appears on the Fictitious Business Name Statement as filed with the county clerk.

The use of a fictitious business name is not permitted for a new location unless the Department of ~~Business Oversight~~ Financial Protection and Innovation has already approved the use of that name. If the fictitious business name has not been approved by the Department of ~~Business Oversight~~ Financial Protection and Innovation, approval of a new fictitious business name may be requested from the Department of ~~Business Oversight~~ Financial Protection and Innovation by submitting under separate cover a copy of the Fictitious Business Name Statement with the "filed stamp" from the county clerk's office. The applicant's name must appear as a registrant on the Fictitious Business Name Statement. This document should be forwarded along with a written request to ~~CFL~~ CFL Licensing Specialist, Department of ~~Business Oversight~~ Financial Protection and Innovation, 320 West 4th Street, Suite 750, Los Angeles, California 90013. Applicants who intend to conduct business under a fictitious business name are required to comply with the rules governing the filing of a fictitious business name as set forth in Business and Professions Code ~~Section~~ section 17900 et seq.

ITEM NUMBER 2 OF APPLICATION:

Applicant's Licensed Place of Business:

Provide the applicant's complete proposed place of ~~CFL~~ CFL business, including number and street, city, county, state, zip code, telephone number, and fax number.

ITEM NUMBER 3 OF APPLICATION:

Individual in Charge of this Location:

Each office must have a person who is in charge. Provide the full name of the individual who will be in charge of this location. If the applicant has no middle name, indicate, e.g. "John [no middle name] Smith."

Statement of Identity and Questionnaire:

The individual named in Item Number 3 of the application must complete and submit a Statement of Identity and Questionnaire. If a Statement of Identity and Questionnaire has already been provided to the Department for the individual named in Item Number 3, there is no need to complete the form. The same individual cannot be in charge of multiple locations, and each location must have an individual in charge.

The 10-year employment and residence history in the Statement of Identity and Questionnaire must be complete and accurate. Attach copies of all pertinent court and other documents requested. The Statement of Identity and Questionnaire must be notarized if executed outside the State of California.

Submit the Statement of Identity and Questionnaire with the fingerprint information and the cost of fingerprint processing (discussed below).

Fingerprints

Individual(s) named in Item Number 3 of the application must submit fingerprints and related information to the Department of ~~Business Oversight~~ Financial Protection and Innovation with the application, for the purposes of conducting a criminal history background check. (~~Financial Code Section~~ Fin. Code, § 22101.5.) Applicants must pay

for the cost of processing the fingerprints.

In-State Individuals:

Individuals named in Item Number 3 of the application who reside in California must complete a "Request for Live Scan Service" form. The triplicate form can be printed from the Department of ~~Business Oversight's~~ Financial Protection and Innovation's website at ~~www.dbodfpi.ca.gov~~. ~~Adobe Reader 7.x is required to download the form correctly.~~ The individual must take the three-part form to a live scan location to have their fingerprints taken by the operator and submitted electronically to the California Department of Justice for processing. The applicant will be required to pay the fees charged by the California Department of Justice for processing the fingerprints directly to the live scan operator. The Attorney General's website at <https://oag.ca.gov/fingerprints> ~~http://caag.state.ca.us/fingerprints/publications/contact.htm~~ has current information concerning the Department of Justice's fees and the location of live scan terminals. You may also call the Department of ~~Business Oversight~~ Financial Protection and Innovation at ~~4-(866)~~ 1-866-275-2677 for information concerning the location of live scan terminals. Submit the "Requesting Agency Copy" of the "Request for Live Scan Service" form and a processing fee of \$ 20 per individual for live scan submission with the ~~CFL~~ CFL application and the Statement of Identity and Questionnaire to the Department of ~~Business Oversight~~ Financial Protection and Innovation. Make the check for the fingerprint processing fees payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation.

Out-of-State Individuals:

Individuals residing outside of California are encouraged to come to California, if practical, to have their fingerprints taken and submitted electronically through California's Live Scan process, to significantly decrease the processing time. However, an out-of-state individual named in Item Number 3 may provide fingerprint images to the Department of ~~Business Oversight~~ Financial Protection and Innovation on fingerprint cards. Call the Department of ~~Business Oversight~~ Financial Protection and Innovation at 4-(866) 1-866-275-2677 to obtain fingerprint cards. The Department of ~~Business Oversight~~ Financial Protection and Innovation will mail the fingerprint cards to you. In addition, you must also complete a "Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement" form, available from the Attorney General's website at [<https://oag.ca.gov/sites/all/files/pdfs/fingerprints/bcii9004.pdf> or current location] <http://caag.state.ca.us/fingerprints/pdf/bcii9004.pdf>. The fee to process the fingerprint card is \$ 86 per individual, which includes the Department of ~~Business Oversight~~ Financial Protection and Innovation processing fee of \$ 20 and the Department of Justice's processing fee of \$ 66. Make the check for all fees payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation. Submit the fingerprint cards, "Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement" form, the fees, and the Statement of Identity and Questionnaire with the ~~CFL~~ CFL application to the Department of ~~Business Oversight~~ Financial Protection and Innovation.

ITEM NUMBER 4 OF APPLICATION:

Applicant's Plan of Business:

Mark the appropriate box with either a "yes" or "no" response to indicate if there has been any change in the plan of business of making or brokering loans or other business that was previously submitted to the Department of ~~Business Oversight~~ Financial Protection and Innovation. If "yes", explain the change.

ITEM NUMBER 5 OF APPLICATION:

Applicant's License Number:

Provide the existing license number and address of at least one other ~~CFL~~ CFL license currently held by the applicant.

ITEM NUMBER 6 OF APPLICATION:

Responsible Officer or Compliance Person:

Provide the name, title, address, email address, and telephone number of the contact person to whom questions regarding the filing of this application should be directed. The responsible officer or compliance person must be from the main office of the company, and may not be a branch manager.

EXHIBITS:

EXHIBIT A (Social Security Number or Federal Taxpayer Identification Number):

Individuals (sole proprietors) applying for a license must provide their social security number. Corporations, partnerships, limited liability companies and other business entities, except sole proprietorships, applying for a license must provide the federal taxpayer identification number. Label the document as Exhibit A.

The Department of ~~Business Oversight~~ Financial Protection and Innovation is required to collect ~~from all applicants~~ social security numbers from all applicants under Family Code ~~Section~~ section 17520, and social security numbers or federal taxpayer identification numbers under Business and Professions Code ~~Section~~ section 494.5. The social security number or federal taxpayer identification number is used to match the information to the names on the list provided by the Department of Child Support Services under Family Code ~~Section~~ section 17520, and the lists of tax delinquencies provided by the State Board of Equalization and the Franchise Tax Board under Business and Professions Code ~~Section~~ section 494.5. Any disclosed social security numbers and federal taxpayer identification numbers in the completed application will be considered confidential information and will be filed and maintained as part of the confidential records not subject to public inspection. Refer to Commissioner's Release 2-G for further information concerning privacy protection of personal information.

EXHIBIT B (Not Applicable)

EXHIBIT C (Statement of Identity and Questionnaire):

Provide for the individual named in Item 3, a Statement of Identity and Questionnaire. If applicable, provide fingerprint information and the cost of fingerprint processing.

SIGNATURE SECTION:

Provide the required information. The Signature Section must be signed by an officer who has previously completed and submitted a Statement of Identity and Questionnaire to the Department of ~~Business Oversight~~ Financial Protection and Innovation.

The application must be signed by the applicant if a sole proprietor, by a general partner if a partnership, or by an authorized officer, if a corporation.

STATE OF CALIFORNIA
DEPARTMENT OF ~~BUSINESS OVERSIGHT~~ FINANCIAL PROTECTION AND
INNOVATION

"SHORT FORM APPLICATION"

FOR A LICENSE UNDER THE

CALIFORNIA ~~FINANCE LENDERS~~ FINANCING LAW

FOR A LICENSEE CURRENTLY HOLDING ONE OR MORE LICENSES

This application must be accompanied by a nonrefundable application fee of \$ 200 and a nonrefundable investigation fee of \$ 100. (~~Financial Code Section~~ Fin. Code, § 22103.) The application (together with the fees payable to the Department of ~~Business Oversight~~ Financial Protection and Innovation) must be filed ONLY in the Los Angeles office of the Department of ~~Business Oversight~~ Financial Protection and Innovation, located at 320 West 4th Street, Suite 750, Los Angeles, CA 90013.

A licensee seeking to engage in business at a new location must submit this application to the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation by certified mail, return receipt requested, at least 10 days before engaging in business at the new location.

A license issued pursuant to the California ~~Finance Lenders~~ Financing Law permits only employees to work under the license. Persons engaged in lending that are not employees may need to obtain a license under the California ~~Finance Lenders~~ Financing Law. In addition, a license issued pursuant to the California ~~Finance Lenders~~ Financing Law.

Financing Law does not permit a licensee to authorize locations operated by persons other than employees of the licensee under some form of franchise or license agreement (e.g., net branching).

1. Name of applicant: _____

Fictitious Business Name (FBN): _____

(FBN must already be on file with the Department. [~~Financial Code Section 22102(e)~~
Fin. Code, § 22102, subd. (e).])

(If the applicant seeks to do business under an FBN that has not been previously approved by the Department of ~~Business Oversight~~ Financial Protection and Innovation (Department), additional information ~~will need to~~ must be submitted under separate cover. Use of a new proposed FBN is not allowed until such time as written approval is received from the Department approving the use of such name. Approval of a new FBN may be requested by submitting under separate cover a copy of the Fictitious Business Name Statement with the "filed stamp" from the county clerk's office along with a written request. The applicant's name must appear as a registrant on the Fictitious Business Name Statement. Refer to ~~Section~~ section 17900 of the Business and Professions Code for the requirements for filing the Fictitious Business Name Statement. (~~Financial Code Section~~ Fin. Code, § 22155.)

2. Applicant's licensed place of business will be located at (~~Financial Code Section~~
Fin. Code, § 22106):

(Number and Street) (City) (County) (State) (Zip)

(Telephone Number)

(Fax Number)

3. The FULL first, middle (if no middle name, so indicate) and last name of the individual in charge of this location. Each office must have a person who is in charge and the same individual cannot be in charge of multiple locations.

* (Last Name)

(First Name)

(Middle Name)

(*Complete a Statement of Identity and Questionnaire (FS 512 SIQ). The form is located on the Department of ~~Business Oversight's~~ Financial Protection and Innovation's website at www.dboedfpi.ca.gov and is printed as Exhibit C in ~~Section~~ section 1422. If the Statement of Identity and Questionnaire form has already been provided to the Department for this individual, there is no need to provide another form. (~~Financial Code Section~~ Fin. Code, § 22105.))

4. Indicate by marking the appropriate box if there has been or will be ANY CHANGE in the applicant's plan of business of making or brokering loans or other business as described in Financial Code ~~Section~~ section 22154 that was previously submitted to the Department. If "yes", provide explanation.

Yes (explain)

No

5. Provide license number and address of one other California ~~Finance Lenders~~ Financing Law license held by this applicant.

License Number _____ Address _____

6. Provide the name, title, address, email address, and telephone number of the person to contact regarding this application. The license will also be mailed provided to this person unless otherwise instructed. The name of the person must be a responsible officer or compliance person from the main office of the company. The name of the branch manager does not belong here.

Attention: _____

(Name)

(Title)

(Number and Street)

(City)

(State)

(Zip Code)

(Email Address)

(Telephone Number)

REQUIRED EXHIBITS:

EXHIBIT A (Social Security Number or Federal Taxpayer Identification

Number):

If the applicant is an individual (sole proprietor), provide the applicant's social security number, or the federal taxpayer identification number if the applicant is a business entity other than a sole proprietorship. Label the document as Exhibit A.

EXHIBIT B (Not Applicable)

EXHIBIT C (Statement of Identity and Questionnaire):

~~Provide for~~For the individual named in Item 3, provide a Statement of Identity and Questionnaire. If applicable, provide fingerprint information and the cost of fingerprint

processing.

In the event of the issuance of a license, applicant agrees to comply with the requirements of the California ~~Finance Lenders~~ Financing Law and rules adopted, and orders issued, by the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation, and further agrees that in the event of any change of its officers, directors, or any other persons named in this application, that an amendment to the application containing the same information in relation to the new person(s) as is required in the application shall be filed with the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation within thirty days from the date of the change. (~~California Code of Regulations Section 1409 (10 C.C.R.~~ Cal. Code Regs., tit. 10, § 1409.)

WHEREFORE, applicant requests that a license be issued by the Commissioner of ~~Business Oversight~~ Financial Protection and Innovation authorizing applicant to engage in business under the California ~~Finance Lenders~~ Financing Law within the State of California.

If the proposed location in Item Number 2 is out-of-state, applicant agrees to make its books and records available in this state, or pay the reasonable expenses incurred during an investigation or examination outside this state.

The applicant has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized.

The undersigned, on behalf of the applicant, acknowledges that this application and all exhibits thereto which are not designated as confidential are subject to public inspection pursuant to California Code of Regulations, title 10, section 250.9.1, Chapter

~~3, Title 10, California Code of Regulations.~~ A request for confidentiality of certain documents may be requested pursuant to ~~Section~~ section 250.10. If a request for confidential treatment is granted (or denied), the person making such request will be notified in writing.

The undersigned also acknowledges on behalf of the applicant that the State Board of Equalization and the Franchise Tax Board are authorized to share taxpayer information with the Department of ~~Business Oversight~~ Financial Protection and Innovation, and in the event the state tax obligation is not paid by a licensee after a license is issued, the Department of ~~Business Oversight~~ Financial Protection and Innovation may be required to suspend the license (~~Business and Professions Code Sections 31 and 494.5~~Bus. & Prof. Code, §§ 31, 494.5).

I declare under penalty of perjury that I have read the foregoing application, including all Exhibits attached thereto, or filed therewith, and know the contents thereof, and that the statements therein are true and correct.

(Applicant)

Executed at _____
(City, County, and State)

(Signature of Declarant) *

Date _____

(Typed Name of Declarant)

(Title)*

*This Short Form Application must be signed by an officer who has PREVIOUSLY completed and submitted a Statement of Identity and Questionnaire. No other officer is authorized to sign documents on behalf of the applicant.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 31 and 494.5, Business and Professions Code; and Sections 22101, 22102 and 22106, Financial Code.

§ 1424. Branch Office License Instructions for ~~Mortgage Lenders~~ Licensees and Applicants Filing Through NMLS.

(a) A ~~mortgage lender, broker, or mortgage lender and broker~~ finance lender, broker, or program administrator licensee on NMLS that seeks to engage in business at an additional location must submit an application for a branch office license by submitting Form MU3 (~~Uniform Mortgage NMLS Branch Office Form~~) in accordance with the instructions of NMLS for transmission to the Commissioner at least ten days (10) before engaging in business at the location.

(b) An applicant on NMLS that intends to conduct business at the branch office under a fictitious business name not already approved by the Commissioner shall submit a copy of the Fictitious Business Name Statement with the “filed stamp” from the county clerk’s office and may not use the name until the Commissioner approves the use of the name.

(c) An applicant shall indicate each branch manager as a branch manager on Form MU3 and submit to NMLS a Form MU2 (~~Biographical Statement & Consent Uniform Mortgage Lender/Mortgage Broker~~ NMLS Individual Form) for each branch manager.

(1) Each branch manager shall provide authorization for, and delivery of, fingerprints and related information to NMLS and the California Department of Justice, as applicable.

(2) Each location must have a branch manager and the same individual may not be a branch manager of multiple locations.

(d) The Commissioner may request that additional information, documentation or detail pertaining to the branch office application be filed directly with the Commissioner.

(e) Application, investigation, and criminal history background check fees shall be paid by the applicant or licensee to NMLS for transmission to the Commissioner. Any applicable fees that cannot be paid through NMLS shall be paid directly to the Commissioner. Fees are not refundable.

(f) A finance lender, broker, or program administrator applicant or licensee filing through NMLS shall comply with this section for an additional license location and not section 1423 of these rules.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22101, 22101.5, 22102, 22103 and 22105, Financial Code.

§ 1425. Books and Records: To Be Maintained at the Licensed Place of Business

(a) Except as otherwise provided by Section section 22158 of the Financial Code, a finance company shall always maintain its books, records, and accounts physically at or digitally accessible from its licensed location.

(b) The individual loan records required to be maintained by a finance company shall include at least the following: The Statement of Loan or other disclosure statements

used to comply with ~~Section~~ section 22337 of the Financial Code, Security Agreement or Wage Assignment, Promissory Note, Loan Application, Payment Record, Escrow Closing Statement (if applicable), Insurance Policies or memoranda, when insurance other than Credit Insurance has been sold, and such records as the Commissioner may designate.

(c) A program administrator shall maintain its books and records in accordance with the requirements in article 15 of this subchapter 6.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22156, 22157, 22158, 22337 and 22709, Financial Code.

§ 1426. Same: Standard for Keeping

A ~~finance company~~ licensee shall maintain its books, accounts and records in accordance with generally accepted accounting principles and good business practice.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22156, 22157 and 22709, Financial Code.

§ 1437. Surety Bond

Every ~~finance company~~ licensee shall maintain a surety bond in accordance with ~~Section~~ section 22112 of the Financial Code as follows:

(a) A ~~finance company~~ licensee that does not make residential mortgage loans and does not employ one or more mortgage loan originators shall post a surety bond in the amount of \$ 25,000.

(b) A mortgage lender, mortgage broker, or mortgage lender and broker shall post a surety bond based on the aggregate dollar amount of residential mortgage loans

originated by the mortgage lender, mortgage broker, mortgage lender and broker in the preceding year, as follows:

Aggregate Loans	Bond Amount
0 - \$ 1,000,000	\$ 25,000
\$ 1,000,001 - \$ 50,000,000	\$ 50,000
\$ 50,000,001 - \$ 500,000,000	\$ 100,000
Over \$ 500,000,001	\$ 200,000

(c) (1) The surety bond shall be in the form provided as Exhibit B to the application for a license as a finance lender or broker in ~~Section~~ section 1422 of ~~Subchapter 6~~ of these rules, unless the applicant or licensee is filing through NMLS.

(2) For an applicant or licensee filing through NMLS, all surety bonds, amendments, cancellations, notices of claims, and information related to surety bonds, shall be filed with, and processed through, NMLS.

(3) When filing through NMLS, the surety bond shall be in the form of an electronic surety bond and shall include the following information and representations by the applicant or licensee, and the surety:

Bond No. [Bond Number]

Bond Amount: [Bond Amount]

Effective Date: [Bond Effective Date]

KNOW ALL PERSONS BY THESE PRESENTS:

That we, [Licensee/Principal Name] including any and all trade names, NMLS # [Licensee/Principal NMLS ID], as Principal, and [Surety Name], NAIC # [Surety NAIC], duly licensed to do surety business in the State of California as Surety (Principal and Surety together are hereinafter collectively referred to as "Obligors"), are held and firmly bound unto the Commissioner of Financial Protection and Innovation of the State

of California ("Commissioner") for use by the Commissioner, for its own benefit, and for the benefit of any person or persons who may have a cause of action against us as the Obligors of this instrument under the provisions of the California Financing Law, California Financial Code section 22000 et seq., hereafter described in the penal sum of [Bond Amount], lawful money of the United States of America, to be paid to the Commissioner for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

Whereas, the above bound Principal has applied to the Commissioner for a license to engage in the business of finance lending, brokering, or administering a PACE program, as provided by law under the California Financing Law.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal and any employee or agent representing the Principal, working at any location, faithfully conform to and abide by each and every provision of the California Financing Law, and all amendments thereto, and of all rules and regulations and orders lawfully made by the Commissioner, and pay to the Commissioner, and to any such person or persons having a right of action against the Obligors any and all monies that may become due or owing to the Commissioner, and to such person or persons from said Obligors under and by virtue of the provisions of the California Financing Law, then this obligation to be void; otherwise to remain in full force and effect until the Surety is released from liability by the Commissioner, subject, however, to the following conditions:

1. The Surety may reduce coverage by amending the effective date or the bond amount, or may cancel this bond thirty days from date of receipt of notice delivered electronically through NMLS to the Principal and the Commissioner, but no such amendment or cancellation shall affect any liability which arises from acts or omissions which occur prior to the termination of such thirty-day period.

2. In no event shall the aggregate liability of the Surety for any and all claims exceed the penal sum of this Bond stated herein.

3. The Commissioner has the exclusive right to proceed on this bond against the Principal or Surety hereon or both to recover any and all moneys that may become due or owing.

In Witness Whereof, The said Principal has hereto set his hand and seal and the said Surety has caused this obligation to be duly executed by its duly authorized agent to be hereunto affixed on this [Day of Signatory Date] day of [Month of Signatory Date], [Signatory Year].

By: [Principal Signee]
Principal

By: [Surety Signee]

Surety

(d) A mortgage lender, mortgage broker, or mortgage lender and broker applicant without a prior year operating history shall make a good faith estimate of the aggregate amount of loans anticipated to be originated in the upcoming year to determine the amount of the surety bond.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22112, Financial Code.

§ 1550. Advertising: ~~Submission for Examination~~

(a) A finance company shall refer to its licensure under the California ~~Finance Lenders~~ Financing Law in any written, printed, or oral communication, including any communication by means of recorded telephone messages, telephonic or electronic media, or spoken on radio, television or similar communications media, only by the following statement: "Loans made or arranged pursuant to a California ~~Finance Lenders~~ Financing Law license."

(b) Any advertisement proposed to be used by a licensed mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator licensee on NMLS, including a mortgage loan originator licensee, shall indicate the unique identifier of the mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator licensee.

(c) A written advertisement on an electronic advertising platform that is limited to 300 or fewer characters need not comply with this section, as long as the electronic

advertisement contains a link and the linked location contains the information required by this section.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22014, 22150, 22161, 22162, 22163, 22164, 22165, 22347 and 22755, Financial Code.

§ 1552. Maintenance of Advertising Copy

(a) A ~~licensee~~ finance company shall maintain in its home office, a file of all advertising copy for a period of at least two (2) years after the last date of its use.

(b) All advertising copy shall have noted thereon the name or names of all advertising media used and the dates when such advertising appeared.

(c) In the case of radio or television advertising, unless the full text of such announcements is retained for the aforesaid prescribed time by the broadcasting station or stations and is available to the Commissioner, a ~~licensee~~ finance company shall cause a voice transcription of the full text of such announcements to be prepared and retained for two (2) years after the last date of its use.

(d) Any advertising used by a mortgage loan originator shall be maintained by the sponsoring mortgage lender, mortgage broker, or mortgage lender and broker, in the manner set forth in this section.

(e) For purposes of this section, a ~~licensee~~ finance company shall include a mortgage loan originator.

(f) A program administrator shall comply with the advertising requirements in article 15 of this subchapter 6 and not this section.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22014

and 22166, Financial Code.

Article 15. PACE Program Administrators

§ 1620.01. General.

Articles 4, 5, 6, 7, 8, and 9 of this subchapter 6 are not applicable to a program administrator unless the program administrator is also engaged in business as a finance lender or broker.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22003.5, 22004, 22009, 22015, 22016, 22017, and 22018, Financial Code.

§ 1620.02. Definitions.

The following definitions are applicable to the administration of a PACE program.

(a)(1) “To solicit a property owner to enter into an assessment contract” includes, but is not limited to, assisting a property owner with completing the application for financing through a PACE assessment plus one or more of the following:

(A) Inviting a property owner to apply for a PACE assessment.

(B) Asking a property owner whether the property owner is interested in a PACE assessment.

(C) Discussing the terms of a PACE assessment with a property owner.

(D) Describing the characteristics of a PACE assessment to a property owner.

(2) “To solicit a property owner to enter into an assessment contract” does not include a trainee observing the process of PACE financing, provided the trainee does not actively participate in the solicitation or PACE financing process.

(b) “Administrative or clerical tasks” means the receipt, collection, and distribution of

information common for the processing of an assessment contract, or an application for an assessment contract, under a PACE program, and includes communication with a property owner to obtain information necessary for the processing of an application for an assessment contract, or for an assessment contract, when performed by an individual under the supervision and direction of an enrolled PACE solicitor, an enrolled PACE solicitor agent, or a program administrator. “Administrative or clerical tasks” also means customer and back-end technical support on the electronic, web-based or database elements of PACE applications. “Administrative or clerical tasks” do not include the activities described in paragraph (a)(1) of this rule.

(c) “Obtained in connection with advertising or soliciting a PACE program” means information that is received in response to the marketing of an efficiency improvement where a PACE program is identified within the marketing of the improvement. A PACE program may be identified by the name of a program administrator, the name of a program, or a description of PACE financing.

(d) “Maintain a license in good standing” or “maintain a registration in good standing” means that a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license. The status of a license or registration on the CSLB website that a license or registration is active, without any notice that the license or registration is expired, suspended, revoked, surrendered, conditioned, or restricted, constitutes the maintenance of a license or registration in good standing.

(e) “Extinguishment of a PACE assessment” means the property owner’s obligations

under an assessment contract have been satisfied or canceled and no further amount related to the PACE assessment will appear on the property owner's property tax bill.

(f) A "PACE solicitor" includes a contractor under chapter 29.1 of part 3 of division 7 of the Streets and Highways Code (beginning with section 5900), if that contractor also meets the definition of "PACE solicitor" in Financial Code section 22017.

(g) A "PACE solicitor agent" includes a third party under chapter 29.1 of part 3 of division 7 of the Streets and Highways Code (beginning with section 5900), if the third party also meets the definition of "PACE solicitor agent" in Financial Code section 22017.

(h) For purposes of paragraph (c)(4) of Financial Code section 22017, a "person who advertises a PACE program" is a person primarily engaged in the business of advertising and not a home improvement contractor, a home improvement salesperson, or an individual when the home improvement contractor, home improvement salesperson, or other individual is directly offering a specific property owner the option of financing a home improvement contract through a PACE assessment by electronic mail, telephone, mail, or in person.

(i) "CSLB" means the Contractors' State License Board.

(j) "Home improvement" has the same meaning as in Business and Professions Code section 7151.

(k) "Home improvement contract" has the same meaning as in Business and Professions Code section 7151.2.

(l) "Home improvement contractor" has the same meaning as in Business and Professions Code section 7150.1.

(m) “Home improvement salesperson” has the same meaning as in Business and Professions Code section 7152.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 7150.1, 7151, 7151.2, and 7152, Business and Professions Code; Sections 22017, 22018, 22157, 22680, 22686, and 22687, Financial Code; and Sections 5922, 5924, and 5925, Streets and Highways Code.

§ 1620.03. Exclusions.

(a) A “program administrator” does not include attorneys, financial advisors, assessment engineers or administrators, trustees or other paying agents, investors, accountants, trainers or other professionals providing services to program administrators, or staff of a public agency, unless, in addition to their role as a service provider to a program administrator or a public agency, they also contract with a public agency to arrange PACE financing for property owners.

(b) “PACE Solicitor” and “PACE solicitor agent” do not include any of the following:

(1) An employee or subcontractor of a PACE solicitor who is performing labor on a job site for a home improvement contract who is not authorized by a program administrator or PACE solicitor to solicit a property owner to enter into an assessment contract and does not solicit a property owner to enter into an assessment contract.

(2) A publisher of a bona fide newspaper, news magazine, or industry publication of general, regular, and paid circulation, and the employees thereof.

(3) A general Internet search engine, and the employees thereof, when providing search results to the public, whether or not the search results include paid

advertising, and whether or not the search results or Internet advertisements are targeted based on traits of prospective consumers.

(4) Attorneys, financial advisors, assessment engineers or administrators, trustees or other paying agents, investors, joint powers authorities, public agencies, or staff of a public agency, when performing acts in their respective role as bond counsel, attorney, financial advisor, assessment engineer or administrator, trustee or other paying agent, investor, joint power authority, public agency, or staff of a public agency.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22017 and 22018, Financial Code.

§ 1620.05. Advertising Standards.

(a) A program administrator shall not advertise PACE financing in a manner that is untrue, deceptive, or likely to mislead a property owner. A program administrator shall condition remaining enrolled as a PACE solicitor or PACE solicitor agent on a PACE solicitor or PACE solicitor agent refraining from advertising a PACE program, directly or indirectly, in a manner that is untrue, deceptive, or likely to mislead a property owner. The following is a non-exclusive list of actions that constitute advertising of a PACE program in a manner that is untrue, deceptive, or likely to mislead a property owner:

(1) Suggesting that the full assessment payment may be tax deductible as a state or local real estate tax, unless the statement is consistent with representations, statements, or opinions of the Internal Revenue Service or applicable state tax agency with regard to the tax treatment of PACE assessments or otherwise true.

- (2) Representing that the program is a free, subsidized, or government program, unless the program in fact has these characteristics.
- (3) Representing that the program is a government program that provides a subsidy or benefit to property owners because of the property owner's limited resources or income, unless the PACE program includes a benefit or subsidy that is available to a property owner because of the property owner's limited resources and income.
- (4) Representing that the property owner will not be obligated to pay the assessment obligations, unless the property owner will not be contractually obligated to pay the assessment obligations.
- (5) Suggesting an efficiency improvement will pay for the PACE assessment, unless the representation is supported by evidence, including being consistent with the Public Utilities Commission's inputs and assumptions for calculating electric utility bill savings under Public Utilities Code section 2854.6.
- (6) Advertising PACE financing through a method that violates the Federal Trade Commission's Telemarketing Sales Rule (16 C.F.R. §§ 310.1-310.9).
- (7) Representing that the advertisement of PACE financing is from a government entity unless the advertising is in fact from a government entity or the representation is authorized by a government entity.
- (8) Advertising that the program has an ending date, is available for a limited time, or is available to a limited number of property owners, unless the program has these characteristics.
- (9) Engaging in blind advertising for a PACE program by failing to identify the program administrator or the PACE solicitor responsible for the advertisement.

(10) Making any written or oral communication in advertising that includes an untrue statement of a material fact about a PACE program, or omitting to state a material fact necessary to make the statements made about a PACE program, in the light of the circumstances under which the statements were made, not misleading.

(b) Every written advertisement by a program administrator shall disclose that the program administrator is not a government agency. The written advertisement shall disclose that the installation or construction of property improvements financed with a PACE assessment is provided through a home improvement contractor or other third-party provider, and not by the program administrator or a government entity.

(c) A program administrator may not advertise, on its website or otherwise, businesses or individuals approved by the program administrator to solicit property owners for PACE financing, unless the business or individual is enrolled by the program administrator as a PACE solicitor or PACE solicitor agent or not required to be enrolled.

(d) A program administrator shall include a reference to the Department of Financial Protection and Innovation and its license number in its written advertising.

(e) A written advertisement on an electronic advertising platform that is limited to 300 or fewer characters need not comply with subdivisions (b) or (d) of this section, as long as an electronic advertisement contains a link, and the linked location contains the information required by these subdivisions.

(f) (1) A program administrator may not evade the prohibition in subdivision (a) by obtaining leads from a third party who the program administrator knows solicits property

owners for participation in a PACE program through untrue, deceptive, or misleading advertising set forth in subdivision (a).

(2) A program administrator shall not enroll or continue the enrollment of a PACE solicitor who the program administrator knows obtains leads from a third party that solicits property owners for participation in a PACE program through untrue, deceptive, or misleading advertising as set forth in subdivision (a).

(3) A program administrator shall not arrange an assessment contract with a property owner if the program administrator knows that the property owner was solicited by a third party that solicits property owners for participation in a PACE program through untrue, deceptive, or misleading advertising set forth in subdivision (a), unless before the start of the home improvement and before entering into an assessment contract, the program administrator does all of the following.

(A) Notifies the property owner of the untrue, deceptive, or misleading representation by the third party.

(B) After correcting the misinformation, obtains and documents the affirmative response that the property owner seeks to proceed with the transaction.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22161, 22162, 22163, 22164, 22165, and 22166, Financial Code.

§ 1620.06. Assessment Contracts and Disclosures.

(a) (1) A program administrator shall provide a property owner the Right to Cancel disclosure required under Streets and Highways Code section 5898.16 as a printed paper copy unless the property owner agrees to an electronic copy.

(2) A program administrator shall provide a property owner with the Financing Estimate and Disclosure required under Streets and Highways Code section 5898.17 as a printed paper copy unless the property owner opts out of receiving a printed paper copy in writing by signing a printed paper document.

(3) If a program administrator obtains the consent of the property owner to enter into the assessment contract electronically, that consent shall be obtained in a manner that demonstrates that the property owner can access the information in the electronic form that will be used to provide the information that is the subject of the consent.

(4) If a program administrator obtains the consent of the property owner to receive a copy of the signed assessment contract solely in an electronic format, this consent shall be obtained by the program administrator in a written document separate from the assessment contract and in a manner that demonstrates that the property owner can access the information in the electronic form.

(5) A program administrator shall make a printed paper copy of the ~~assessment~~ assessment contract available to the property owner upon request.

(6) Nothing in this section restricts the ability of a program administrator to deliver documents to a property owner in printed form or requires the electronic delivery of any document.

(b) If a program administrator provides the documents in subdivision (a) to a property owner electronically, the program administrator shall comply with the requirements of this subdivision unless the program administrator also provides a printed copy of the documents to the property owner.

(1) The program administrator shall ask and confirm with a property owner that the property owner has access to the internet and agrees to accept the documents at an electronic mail address of the property owner's choosing.

(2) The program administrator shall confirm that the property owner's email address was not established during the solicitation for PACE financing by asking the property owner during the oral confirmation of key terms call under Streets and Highways Code section 5913 to confirm the property owner's email address, when it was created, and the person who created it. A program administrator that uses technology to detect newly created email addresses may rely on this technology in lieu of the confirmation required by this paragraph.

(3) The program administrator shall provide the documents under subdivision (a) to a property owner electronically in a manner that does not limit the time period that the property owner has to access the electronic records, unless the program administrator notifies the property owner of this limitation and provides the property owner a printed copy of the documents.

(4) The documents shall be in a format that allows a property owner to download, save, and print on 8 ½ x 11-inch paper.

(5) The program administrator shall advise the property owner to print, read, and save a physical copy of the documents, and to save an electronic copy of the documents.

(6) The program administrator shall advise the property owner that the property owner may request a printed copy of the documents and shall provide a property owner with the printed copy of the documents upon request.

(7) The program administrator shall retain evidence in its records that the documents were received electronically by the property owner. The evidence may be obtained during the oral confirmation of this information under paragraph (e)(1) of this section or through another method determined by the program administrator.

(c) If the disclosure documents in paragraphs (a)(1) and (a)(2) are provided attached to the assessment contract, the disclosure documents must be in front of the contract but may be preceded by a cover letter or other introductory information.

(d) (1) The program administrator shall take reasonable steps to ensure the signature belongs to the property owner.

(2) If a signature is not notarized, the program administrator shall confirm the signature of the property owner through the process identified in ~~paragraph (1) of this subdivision~~ subparagraph (A) of this paragraph in addition to one or more of the processes identified in ~~paragraphs (2) through (4) of this subdivision~~ subparagraphs (B) through (D) of this paragraph.

~~(1)~~ (A) Confirming the identity of the property owner through photo or other unique identification presented by the property owner or a two-step authentication process.

~~(2)~~ (B) Tracking IP geolocation information.

~~(3)~~ (C) Sending a confirming letter by postal mail.

~~(4)~~ (D) Confirming the identity of the property owner and that the property owner will be the person signing the assessment contract during the oral confirmation of key terms.

(e) The oral confirmation of key terms under Streets and Highways Code section 5913 shall be conducted in a manner intended to confirm the property owner understands the information.

(1) For purposes of confirming that at least one owner of the property has a copy of the assessment contract documents required in subparagraph (a)(1)(A) of Streets and Highways Code section 5913, the program administrator shall confirm that the physical or electronic documents have been delivered to the property owner, and if the documents are delivered solely in electronic format, that the property owner has received the documents and the property owner has successfully accessed the documents through the property owner's own electronic device, before proceeding with the remainder of the oral confirmation.

(2) If the program administrator determines that PACE solicitor agent is providing the property owner with answers during the oral confirmation, the program administrator shall advise the property owner that the program administrator cannot confirm that the property owner understands the terms unless the property owner can respond without the assistance of the PACE solicitor agent.

(3) If the PACE solicitor agent is present during the oral confirmation of key terms, the program administrator shall confirm that the property owner consents to the PACE solicitor agent's presence.

(4) A program administrator may not proceed with the oral confirmation if the property owner objects to the presence of the PACE solicitor agent and the PACE solicitor agent remains present.

(f) For purposes of confirming that the efficiency improvement being installed is

being financed by a PACE assessment as required by subparagraph (a)(2)(C) of Streets and Highways section 5913, the program administrator shall confirm with the property owner that the scope of work subject to PACE financing in the assessment contract is included in the scope of work in the home improvement contract.

(g) A program administrator shall provide in writing to every property owner who enters into an assessment contract the Department of Financial Protection and Innovation's consumer services toll-free number ((866) 275-2677), email address (Ask.DFPI@dfpi.ca.gov), and website (dfpi.ca.gov).

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22001 and 22161, Financial Code; Sections 5898.16, 5898.17, and 5913, Streets and Highways Code.

§ 1620.07. Books and Records.

(a) A program administrator shall maintain its books, records, and accounts physically at or digitally accessible from its main licensed location in California.

(b) The records required to be maintained shall, at a minimum, include the following:

(1) Records related to the business of a program administrator, including the following:

(A) A program administrator's financial statements prepared in accordance with generally accepted accounting principles.

(B) Administration agreements with public agencies.

(C) Agreements with PACE solicitors and PACE solicitor agents.

(D) Enrollment records for PACE solicitors and PACE solicitor agents, including records maintained pursuant to paragraph (h)(2) of section 1620.12 of these rules.

(E) Documentation of the background check of PACE solicitors and PACE solicitor agents, including records maintained pursuant to paragraph (c)(4) of section 1620.11 and paragraphs (b)(2), (c)(2), and (d)(2) of section 1620.13 of these rules.

(F) Documentation of the CSLB licensure or registration status of a PACE solicitor and PACE solicitor agent, to the extent it exists and is accessible, and if applicable, documentation supporting the reason that the PACE solicitor or PACE solicitor agent is not subject to licensure or registration with the CSLB, including records maintained pursuant to subparagraph (d)(1)(D) of section 1620.11 and subdivision (g) of section 1620.12 of these rules.

(G) Documentation of monitoring PACE solicitor and PACE solicitor agent compliance as required by ~~paragraph~~ subdivision (h) of section 1620.14 of these rules.

(H) Documentation of periodic reviews as required by paragraph (e)(2) of section 1620.15 of these rules.

(I) Documentation of PACE solicitor agent training under paragraph (c)(1) of section 1620.17 of these rules.

(2) Records related to each assessment contract, including the following:

(A) The assessment contract and, if signed or delivered electronically (or both), the property owner's consent to an electronic signature and electronic delivery.

1. If a signed copy is provided electronically to the property owner, evidence of receipt by the property owner.

2. If the assessment contract is signed electronically by the property owner, the audit trail related to the electronic signature.

(B) Any complaints and final decisions.

(C) Documentation of ability to pay for each assessment contract, including verification of a property owner's eligibility for an assessment contract.

(D) Oral confirmation of key terms records.

(E) Disclosures required by Streets and Highways Code sections 5898.16 and 5898.17 and, if provided electronically, documentation of the property owner's consent to receive the documents electronically, and evidence of receipt of the disclosures by the property owner.

(F) Evidence of the market value of the property at the time of the assessment contract, including the documentation required by section 1620.27 of these rules.

(G) A record of the estimated useful life of the measure with the greatest portion of funds disbursed under the assessment contract in accordance with subdivision (j) of Financial Code section 22684.

(H) The sources used to verify the criteria in Financial Code section 22864, if required under section 1620.29 of these rules.

(I) Documentation of the scope of work subject to PACE financing from the home improvement contract.

(J) Any correspondence with any other lienholder on the property.

(3) Any advertising used for direct marketing or provided to PACE solicitors for marketing, and any advertising submitted by, or approved for use by, a PACE solicitor.

(4) Records related to compliance with division 9, chapter 3.5 of the California Financing Law:

(A) Procedures for handling complaints.

(B) Procedures for enrolling, canceling enrollment of, and withdrawing agents and solicitors.

(C) Procedures for determining a property owner's ability to pay as required by section 1620.21 of these rules.

(D) Procedures for the periodic review of PACE solicitors.

(5) Original copies of documents uploaded to NMLS as part of the applicant's licensure application or uploaded for the purpose of maintaining licensure, if the document contains an original signature.

(c) (1) A program administrator must maintain financial statements in subparagraph (b)(1)(A) for three years from the date of preparation.

(2) A program administrator must maintain the records in paragraphs (b)(1)(B) through (b)(1)(I) of this rule for three years from the date of the record, three years from the end of any agreement, or three years after the PACE solicitor or PACE solicitor agent is no longer enrolled, whichever is later.

(3) (A) A program administrator must maintain the records in paragraph (b)(2)(A) for at least three years after the extinguishment of a PACE assessment is recorded.

(B) A program administrator must maintain the records in paragraphs (b)(2)(B) through (b)(2)(J) for at least five years after the consummation of a PACE assessment.

(4) A program administrator must keep advertising in paragraph (b)(3) for two years from the date of publication.

(5) A program administrator must maintain the records in paragraphs (b)(4) and (5) during the period of licensure.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22157, and 22166, Financial Code; Sections 5898.16, 5898.17, and 5913, Streets and Highways Code.

§ 1620.08. Complaint Processes and Procedures.

(a) Every program administrator shall develop and implement policies and procedures for responding to questions and addressing complaints in compliance with this section. The procedures shall include a complaint process under which a property owner may submit a complaint to the program administrator and receive a final decision.

(1) The complaint process shall provide for the consideration, and as applicable, investigation of the issues raised in the complaint, and the final decision of property owner complaints.

(2) (A) “Final decision” means that after due consideration and investigation, as necessary, of the issues raised in the complaint, the program administrator has reached a final conclusion on the subjects of the complaint and any request contained therein and has notified the property owner. This definition does not restrict in any way a property owner’s right or ability to continue to pursue a complaint through any means available under law.

(B) “Final decision” includes the decision by a program administrator, after consideration and investigation, that the program administrator will take no further action on a complaint, and the communication of this decision to the property owner.

(C) “Final decision” includes the closure of a complaint when neither a complainant nor the authorized agent of a complainant responds to communications from the program administrator after at least two attempts to contact the complainant by the program administrator and not less than 30 days of noncommunication from the complainant between the final contact attempt and the notice of closure of the complaint. A closure of a complaint as a result of abandonment as described in this subparagraph shall be communicated to the complainant in the manner described in subdivision (e).

(3) (A) Inquiries, questions, requests, criticisms, and correspondence not constituting a complaint requiring resolution need not be included within the complaint process. Inquiries, questions, requests, criticisms, correspondence, and complaints regarding a matter in an active lawsuit against a program administrator need not be included in the complaint process, provided the lawsuit has been filed. For purposes of this subparagraph, retaining counsel does not equate to filing a lawsuit.

(B) If a program administrator determines that a property owner is making an inquiry, question, request or criticism and not submitting a complaint, the program administrator must respond to the inquiry, question, request or criticism as soon as practicable in accordance with Financial Code section 22683.

(C) A response to an inquiry, question, request, or criticism received by telephone or email should ordinarily not take longer than one working day for

information readily available to the program administrator, but may require additional time for research or coordination with other parties. If the response will take longer than one day, the program administrator shall notify the property owner within 24 hours or one working day.

(D) If the response to an inquiry, question, request, or criticism involves a decision by the program administrator about how to respond to factual allegations of a mistake or wrongdoing related to the PACE financing, then the matter is a complaint subject to subdivision (b).

(4) A complainant may authorize a representative to represent the complainant in communications with the program administrator throughout the complaint process. All of the obligations towards a complainant in this rule shall be applicable to a representative of the complainant.

(b) The complaint initiation process shall include the following characteristics.

(1) The complaint process shall include a procedure to provide a property owner with notice of how to contact the program administrator with a complaint.

(A) The notice must be in a form that may be maintained physically or electronically by the property owner. The information provided in the Financing Estimate and Disclosure document under Streets and Highways Code section 5898.17 complies with this requirement if the program administrator's telephone number and customer service email address are provided in the form and the form may be maintained physically or electronically by the property owner.

(B) The information regarding how to submit a complaint must be maintained on the program administrator's website. The website shall include both the toll-free

telephone number and the customer service email address required by the Financing Estimate and Disclosure form under Streets and Highways Code section 5898.17. The website shall include the notice from the Financing Estimate and Disclosure form that the property owner will receive a response within 24 hours or one business day.

(C) The methods to contact the program administrator must be reasonable and available to property owners who do not have access to the Internet or electronic communication. The methods shall include a toll-free telephone number and a customer service email, and may include postal mail, electronic submission, and other methods intended to make the complaint process widely accessible to property owners.

(2) The program administrator shall provide the property owner with acknowledgment of receipt of a complaint received by email or telephone within 24 hours or one business day of receiving the complaint. The program administrator shall provide the property owner with acknowledgment of receipt of a complaint received by postal mail within three business days.

(A) If the complaint is received by email or postal mail, the acknowledgment shall be in writing. The written acknowledgment may be through email if the property owner submits the complaint through email or the property owner agrees on or after the submission of the complaint to communicate through email.

(B) If the complaint is received by telephone, the confirmation may be oral and the program administrator shall provide the property owner with a way to identify the property owner's complaint in subsequent correspondence, such as a tracking number, if the complaint is not resolved during the conversation.

(C) The acknowledgment may be combined with the resolution of the complaint if the complaint can be resolved within the time period for the acknowledgment.

(3) The program administrator shall make the complaint process available to a complainant in the language used to communicate during the oral confirmation under subdivision (d) of Streets and Highways Code section 5913, to solicit the property owner to enter into the assessment contract, the language of the assessment contract, and, if supported by the program administrator, the property owner's preferred language.

(c) The complaint process shall include a procedure for communicating with a property owner regarding the status of the complaint.

(1) If a complainant contacts the program administrator, including through the toll-free telephone number or customer service email address, for a status update, the program administrator shall ordinarily respond to the complainant within three business days.

(d) The complaint process shall include a procedure for tracking open and closed complaints.

(1) The procedure must include a process for recording the status of a complaint.

(A) The tracking shall be in a format that is accessible to the Department upon request.

(2) The complaint process shall include target dates for actions and resolution.

(A) The investigation of a complaint should ordinarily not require more than thirty days.

(B) If additional time is needed, the program administrator shall advise the complainant.

(C) If after an additional 15 days the program administrator has not issued a final decision, the program administrator shall provide the complainant with a written update on the status of the complaint and an estimate of the additional time needed to complete the investigation and issue a final decision, which shall not be more than 15 additional days except in an extraordinary circumstance, and include contact information for the Department of Financial Protection and Innovation at (866) 275-2677 or online at dfpi.ca.gov.

(3) The complaint process shall include a procedure for identifying and prioritizing complaints not resolved in thirty days.

(4) The complaint process shall include a procedure for the expedited review of complaints involving (1) a third-party lender or servicer who has advanced payments for property taxes on behalf of a property owner; (2) the risk of foreclosure or loss of possession of real property; or (3) other financial hardship.

(A) The expedited review process shall provide a property owner with the option of speaking with a live representative, which may be a representative accessible through the customer service toll-free telephone number.

(B) The investigation of a complaint in an expedited review process should ordinarily be conducted in a week. If additional time is needed, the program administrator shall advise the complainant.

(5) The tracking of complaints shall include the tracking of whether the complainant has authorized a third party to assist or represent the complainant.

(e) The program administrator shall notify the property owner upon a final decision and a closing of the complaint.

(1) The program administrator shall correct errors identified during the review of the complaint that occurred in the making of the assessment contract or the administering of the PACE assessment. This paragraph shall not be applicable for any error made by the property owner that was not the result of fraud or forgery.

(A) If the program administrator determines an error occurred in the making of the assessment contract or the administering of the PACE assessment as provided in paragraph (1), the program administrator shall correct the error and notify the complainant of the correction, the effective date of the correction, and the contact information for further assistance.

(B) If after considering the complaint and conducting an investigation, as necessary, the program administrator concludes no error occurred with respect to the making of the assessment contract or the administering of the PACE assessment, the program administrator shall notify the complainant of its final decision, the reasons for the decision, and the contact information for further assistance or to seek reconsideration of the complaint.

(C) 1. The program administrator shall maintain a process where a property owner may request the reconsideration of a final decision in a complaint.

2. The reconsideration shall not be conducted by the same person who issued the final decision, and the person reconsidering the complaint must have authority to reverse the final decision.

(2) If the complaint was received by telephone, the program administrator may notify the complainant of the final decision and closure of the complaint by telephone and the program administrator shall offer to provide the final decision in writing.

(A) If the final decision of the complaint results in changes to the PACE assessment, the program administrator shall confirm the details of the changes in writing, regardless of whether the complaint was received by telephone. The written notice may be by email if the complainant has corresponded with the program administrator by email or the complainant confirms after the submission of the complaint that the complainant can receive communications sent by email.

(B) If the allegations in the complaint involved fraud or forgery, the final decision shall be in writing notwithstanding paragraph (2).

(C) If the complaint is closed by telephone, the program administrator shall inform complainants that if they have any concerns regarding their complaint, they may contact the Department of Financial Protection and Innovation at (866) 275-2677 or online at dfpi.ca.gov. The program administrator shall also provide the information in subparagraph (e)(1)(B), if required by that subdivision.

(3) If the complaint was received in writing by email or postal mail, the program administrator shall notify the complainant of the final decision and the closing of the complaint in writing.

(A) If the final decision of the complaint results in changes to the PACE assessment, the program administrator shall confirm the details of the changes in writing to the complainant.

(B) The written notification of the final decision and closure of a complaint shall include the following: “If you have any concerns regarding your complaint, you may contact the Department of Financial Protection and Innovation at (866) 275-2677 or online at dfpi.ca.gov.” The program administrator shall also provide the information in subsection (e)(1)(B), if required by that subdivision.

(4) For purposes of this subdivision, “error” means a mistake; the state of being wrong in conduct or judgment.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22683, Financial Code; Section 5898.17, Streets and Highways Code.

§ 1620.10. Dishonest Dealings and Misleading Statements.

(a) The following constitute dishonest dealings by a program administrator under Financial Code section 22161. This list is not exhaustive of all activities that constitute dishonest dealings by a program administrator.

(1) Disclosing to a PACE solicitor or PACE solicitor agent the amount of PACE financing available to a property owner.

(2) Paying a PACE solicitor for work that is financed through an assessment contract that a program administrator knows or should have known is unperformed. For purposes of this paragraph, a determination of whether work is performed shall be consistent with Business and Professions Code section 7159.5, paragraph (a)(5).

(3) Making the final payment on an assessment contract to a PACE solicitor when the program administrator knows or should have known that a product financed through an assessment contract is uninstalled.

(A) For purposes of this paragraph, a warranty shall not constitute an uninstalled product.

(B) For purposes of this paragraph, contract terms and services including, but not limited to, a warranty, operations, maintenance, repairs, and customer service shall not constitute an uninstalled product.

(4) Paying a PACE solicitor for a product that is materially higher in price from the product the PACE solicitor installs on the property, where the program administrator knows or should have known that the product installed costs materially less than the product financed through the assessment contract.

(b) The following constitute dishonest dealings and a program administrator shall create and enforce policies and procedures to prohibit a PACE solicitor and a PACE solicitor agent from doing any of the following:

(1) Misrepresenting the manner that a PACE obligation may be repaid.

(2) Representing to a property owner that the PACE program is a free, no cost, subsidized, or government program, unless the program has those characteristics.

(3) Representing to a property owner that the PACE program is available to the property owner based on the property owner's age, race, ethnicity, or income status, unless the program has that criteria.

(4) Representing to a property owner that the property owner is eligible for PACE financing through the program administrator prior to the program administrator making that determination.

(5) Representing to a property owner that a home improvement meets an energy or water efficiency standard unless the improvement meets such standard, such

as the home improvement being Energy Star rated or included within title 20 or title 24 of the California Energy Commission's rules.

(6) Representing to a property owner that a PACE assessment will result in a tax credit or tax benefit unless the representation is consistent with written representations, statements, or opinions of the Internal Revenue Service or applicable state tax agency about the tax treatment of a PACE assessment.

(7) Failing to complete the scope of work under a home improvement contract that is financed by the assessment contract.

(8) Representing to a property owner that a home improvement that is not an efficiency improvement may be financed through a PACE assessment, or otherwise provided to a property owner for free or at a nominal cost, because the property owner enters into an assessment contract.

(9) Misrepresenting to a property owner whether the property owner will be obligated to pay for the efficiency improvements financed through the assessment contract.

(10) Stating to the property owner that the assessment contract will transfer to the buyer upon the sale of the property, unless the property owner is also informed at the same time that often lenders will require the remaining balance under the assessment contract to be paid before financing or refinancing a property.

(11) Representing that an efficiency improvement will result in an increase in a property's market value, unless evidence supports the representation and the representation is otherwise lawful.

(12) Misleading the property owner about the overall cost of the assessments.

(13) Retaliating against a property owner for canceling the assessment contract during the three-day or five-day right to cancel period.

(14) Including home improvements not eligible for PACE financing in an assessment contract.

(15) Facilitating a property owner entering into multiple assessment contracts on the same property for the same efficiency improvement. This paragraph does not prevent a PACE solicitor or PACE solicitor agent from assisting a property owner with obtaining financing offers from more than one program administrator, provided that the property owner only enters into one assessment contract to finance each efficiency improvement and the program administrator does not provide the PACE solicitor or PACE solicitor agent information on the amount of financing for which the property owner is approved. This paragraph does not prevent a PACE solicitor or PACE solicitor agent from assisting a property owner entering into an assessment contract through more than one program administrator on the same property for different efficiency improvements.

(c) (1) Nothing in this rule is intended to limit, impede, or interfere with the Contractors State License Board's jurisdiction over representations made in the solicitation of home improvement contract, including representations regarding a tax or utility credit or rebate for an efficiency improvement.

(2) Nothing in this section authorizes any representation that is restricted or prohibited under any law.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 7159.5, Business and Professions Code; Section 22161, Financial Code; Section 5925, Streets

and Highways Code.

§ 1620.11. PACE Solicitor Enrollment Standards and Processes.

(a) Every program administrator shall establish and maintain a written process for enrolling a PACE solicitor that complies with the requirements of this rule.

(1) A program administrator may not authorize a PACE solicitor or a PACE solicitor agent to solicit a property owner to enter into an assessment contract until the program administrator enrolls the PACE solicitor and PACE solicitor agent.

(2) A program administrator may not fund a home improvement contract if the PACE financing was solicited by a person not enrolled as a PACE solicitor or PACE solicitor agent, unless the person was not required to be enrolled as a PACE solicitor or PACE solicitor agent at the time of solicitation.

(b) The written enrollment process must include, at a minimum, the following requirements:

(1) Provisions requiring an enrolled PACE solicitor to maintain in good standing any license or registration from the Contractors' State License Board required by law.

(2) Provisions requiring an enrolled PACE solicitor to comply with the laws regarding PACE programs applicable to the activities of PACE solicitors, including but not limited to those set forth in division 7 of the Streets and Highways Code, division 16 of the Public Resources Code, and division 9 of the Financial Code.

(3) Provisions that restrict enrollment to PACE solicitors that agree to comply with the following requirements:

(A) 1. An enrolled PACE solicitor may only solicit a property owner to enter into an assessment contract arranged by the program administrator to finance efficiency improvements that are approved under the PACE program administered by the program administrator.

2. This subparagraph shall not restrict the ability of a PACE solicitor to offer other home improvements or to arrange financing for a property owner through other means, including the PACE programs of other licensed program administrators with whom the PACE solicitor is enrolled.

3. A PACE solicitor shall notify the program administrator if a property owner is considering PACE programs of other licensed program administrators so the program administrator may ensure multiple assessment contracts are not recorded for the same efficiency improvements.

(B) A PACE solicitor must deliver a copy of the assessment contract and the disclosures required by Streets and Highways Code section 5898.16 or 5898.17 to a property owner, if under the arrangement with the program administrator, the PACE solicitor agrees to deliver these documents. This provision shall not relieve a program administrator from any obligation to ensure a property owner receives the PACE disclosures required by law.

(C) 1. The PACE solicitor will not begin work on a home improvement contract financed by an assessment contract if the conditions of subdivision (a) of Streets and Highways Code section 5940 are met, unless the property owner waives his or her right to cancel on the home improvement contract as provided under subdivision (e) of that section.

2. The PACE solicitor will not execute a home improvement contract nor begin work under a home improvement contract that is financed by an assessment contract unless the criteria set forth in Financial Code section 22684 are satisfied.

(D) The PACE solicitor will be responsible for the actions of a PACE solicitor agent when the agent is acting on behalf of the PACE solicitor. This provision does not affect any responsibility a program administrator may otherwise have for the acts of a PACE solicitor or a PACE solicitor agent.

(E) The PACE solicitor will require each PACE solicitor agent employed or retained by the PACE solicitor to undertake the training and testing required by Financial Code section 22681.

(F) The PACE solicitor will notify the program administrator of property owner inquiries and complaints regarding the assessment contract and the home improvement contract that are unresolved to the property owner's satisfaction for a month or more.

(G) The PACE solicitor will not make any statement or representation in regard to a PACE program that the PACE solicitor knows, or reasonably should have known, to be false, misleading, or deceptive, or that omits material information that is necessary to make any statement made not false, misleading or deceptive.

(H) The PACE solicitor will only advertise a PACE program in accordance with the program administrator's procedures to prevent deceptive advertising and will maintain advertising of PACE financing as required by the program administrator to conduct a periodic compliance review.

(I) The PACE solicitor will notify the program administrator if the PACE solicitor knows that the property owner has sought, authorized, or obtained any other

PACE assessment on the property.

(J) A PACE solicitor will maintain a process for responding to complaints about PACE financing that includes any requirements developed by the program administrator to expedite resolution of the complaints and to review complaint resolutions as a component of the periodic review of the PACE solicitor.

(c) A program administrator shall establish and maintain a written process to evaluate readily and publicly available information on a PACE solicitor for the purpose of obtaining information on the qualifications of a PACE solicitor and a PACE solicitor agent for enrollment, and to conduct the review of the PACE solicitor required by subdivision (e) of Financial Code section 22680 and section 1620.13 of these rules.

(1) To review readily and publicly available information about each PACE solicitor, a program administrator shall establish and implement a process for reviewing the following.

(A) The Contractors State License Board's website.

(B) One or more business or consumer rating website, if applicable.

(C) The Department of Financial Protection and Innovation's website.

(D) Any other source identified by the program administrator as necessary to evaluate the readily and publicly available information on a PACE solicitor, such as subscription-based services or court records.

(2) (A) The process established and maintained by the program administrator need not include a review of all publicly-available information, provided that the process is designed to include a review of a sufficient sample of public sources of information that is likely to contain consumer feedback regarding the business practices of a PACE

solicitor.

(B) The process established and maintained by the program administrator shall include a review of all of the current and past licenses and registrations the PACE solicitor holds or has held with the Contractors State License Board, to the extent this information is readily and publicly available.

(3) The program administrator shall establish standards for evaluating public information obtained pursuant to this rule to guide the program administrator in making any of the findings in subdivision (e) of Financial Code section 22680 in accordance with the requirements of section 1620.13 of these rules.

(A) The standards shall provide a benchmark for the program administrator to evaluate past civil and criminal actions, license or registration discipline, and consumer complaints involving the PACE solicitor that are related to the functions of a PACE solicitor.

(B) In establishing the standards, the program administrator shall consider the frequency of activity, the volume of the activity, whether the activity resulted in consumer harm, the time since the activity, evidence of rehabilitation, restitution, and accountability.

(4) The program administrator shall document the results of the review of publicly available information and maintain the documentation of findings in its books and records as required by section 1620.07 of these rules.

(d) (1) A program administrator shall notify the Commissioner of the enrollment, or cancellation or withdrawal of enrollment, of a PACE solicitor and a solicitor agent

through a daily electronic transfer of data between 7:00 p.m. and 3:00 a.m. Pacific Standard Time.

(A) The program administrator shall upload a .TXT file containing information required by subparagraph (d)(2)(a) of this section for each enrolled, canceled, or withdrawn PACE solicitor and solicitor agent.

(B) If a program administrator cancels or withdraws the enrollment of a PACE solicitor or solicitor agent, the program administrator must update the record for the PACE solicitor or solicitor agent to reflect both that the PACE solicitor or solicitor agent is no longer enrolled, and the date enrollment ended.

(C) The removal of PACE solicitor or solicitor agent record from the data file will not remove the PACE solicitor or solicitor agent from the Department's records and the Department's records will continue to reflect the PACE solicitor or solicitor agent as enrolled with the program administrator until the program administrator reports that the enrollment has ended and provides the date enrollment ended.

(D) If a PACE solicitor is not required by CSLB to have a CSLB license number, the program administrator shall provide the federal employer identification number (EIN) of the PACE solicitor and maintain in its books and records documentation and an explanation supporting the reason that the PACE solicitor is not subject to or exempt from licensure by the Contractors State License Board.

(E) The transferred data may not contain duplicate records. A record is a duplicate for a PACE solicitor if the record contains the same CSLB license number and physical address as another record, or if the record contains the same EIN and physical address of another record.

(F) The daily transfer of data must include records for all enrolled, canceled, and withdrawn PACE solicitors and solicitor agents and is not limited to the records amended that day.

(2) (A) The data submitted in the .TXT file for PACE solicitors shall include the following required fields: the program administrator legal name, the name under which the program is marketed, the Nationwide Multistate Licensing System (NMLS) Unique Identifier of the program administrator, the PACE solicitor legal business name, the Contractors State License Board license number of the PACE solicitor or "exempt" if the PACE solicitor is not required to be licensed by the CSLB, the physical address of the PACE solicitor, the business phone number of the PACE solicitor, the primary business email address of the PACE solicitor, the status of the enrollment (whether enrolled or not enrolled); the tracking number used by the program administrator for the PACE solicitor, and a contact name and number for the PACE solicitor.

(B) The data shall include the following conditional fields: if the PACE solicitor is not required by CSLB to have a Contractors State License Board license, then the program administrator shall provide the federal Employer Identification Number (EIN) of the PACE solicitor; and if the enrollment status of the PACE solicitor is canceled or withdrawn, then the program administrator shall provide the date enrollment ended.

(C) The data shall include the following fields, if the following information is available to the program administrator and applicable to the PACE solicitor: the DBA of the PACE solicitor; the CSLB license classification of the PACE solicitor; the mailing address of the PACE solicitor; the business FAX number of the PACE solicitor; the business website of the PACE solicitor; the mobile phone number of the contact person

for the PACE solicitor; and the email address of the contact person for the PACE solicitor.

(3) (A) The data submitted in the .TXT file for solicitor agents shall include the following required fields: the program administrator legal name, the Nationwide Multistate Licensing System (NMLS) Unique Identifier of the program administrator, the first and last name of each PACE solicitor agent, the phone number of the PACE solicitor agent, the contact email of the PACE solicitor agent, the identification number used by the program administrator to track the PACE solicitor agent, the mailing address of the PACE solicitor agent, the enrollment date of the PACE solicitor agent, the enrollment status of the PACE solicitor agent (enrolled or not enrolled), the identity of the PACE solicitor employing or retaining the PACE solicitor agent, and the program administrator's identification number for the PACE solicitor employing or retaining the PACE solicitor agent.

(B) The data shall include the following conditional field: if the enrollment status of the PACE solicitor agent is canceled or withdrawn, then a program administrator must provide the date enrollment ended.

(C) 1. The data shall include the PACE solicitor agent's middle name, if the information is available to the program administrator and applicable to the PACE solicitor agent.

2. The data shall include the PACE solicitor agent's CSLB Home Improvement Salesperson (HIS) registration number unless the PACE solicitor agent is not required by the CSLB to be registered with the CSLB.

(4) The Commissioner may reject electronic records that fail to meet the formatting standard necessary to populate the Department's database, which shall include string, numeric, and date data types for the corresponding data fields, and shall notify the program administrator by email of any rejected records.

(5) A program administrator who receives notice of a rejected record shall correct the formatting deficiency and resubmit the record the following day in accordance with the electronic file transfer schedule established by the Commissioner.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22017 and 22680, Financial Code; Section 5940, Streets and Highways Code.

§ 1620.12. PACE Solicitor Agent Enrollment Standards and Processes.

(a) Every program administrator shall maintain a written process for enrolling a PACE solicitor agent that complies with the requirements of this rule.

(b) The process for enrolling a PACE solicitor agent shall include a background check, which may be accomplished through any of the following methods:

(1) The program administrator may rely on a fingerprint background check conducted by the Contractors State License Board.

(2) The program administrator may utilize a third-party service that conducts background checks.

(3) The program administrator may conduct its own background check of a PACE solicitor agent.

(c) If a program administrator conducts its own background check of a PACE solicitor agent, that background check must meet the following requirements:

(1) The background check must identify whether the PACE solicitor agent maintains a license or registration in good standing from the Contractors State License Board, or is otherwise exempt from, or not subject to, licensure or registration.

(2) The background check must be designed to identify whether the PACE solicitor agent has done any of the following:

(A) Been convicted of or pleaded nolo contendere to a crime involving dishonesty, fraud, or deceit.

(B) Engaged in any act involving dishonesty, fraud, or deceit as provided in subdivision (a)(2) of Business and Professions Code section 480, which can be ascertained through court filings or public records of administrative actions.

(C) Engaged in any act that would constitute grounds for discipline under Financial Code section 22690, which can be ascertained through court filings or public records of administrative actions.

(D) Been denied a license or registration from the CSLB, or had a license or registration revoked by the CSLB.

(3) The background check shall include a review of public filings, including court filings, alleging the conduct specified in paragraph (2).

(d) The enrollment process shall require the PACE solicitor agent to complete the introductory training required by Financial Code section 22681 and section 1620.17 of these rules.

(1) A program administrator shall require each PACE solicitor agent to complete an introductory training that addresses the topics listed in subdivision (c) of Financial

Code section 22681 and to pass a test that measures the PACE solicitor agent's knowledge and comprehension of the training material.

(2) A program administrator shall require a PACE solicitor agent to complete the introductory training required by subdivision (b) of Financial Code section 22681 and pass the associated test prior to soliciting a property owner to enter into an assessment contract on behalf of the program administrator.

(3) A program administrator shall require each PACE solicitor agent to complete six hours of education provided by the program administrator within three months of completing the program administrator's enrollment process.

(e) A program administrator may conditionally enroll a PACE solicitor agent if the program administrator complies with the following:

(1) The program administrator verifies that the PACE solicitor agent has applied for licensure or registration with the Contractors State License Board and the licensure or registration process is complete except for the applicant's fingerprint background check.

(2) The program administrator independently conducts a background check of the PACE solicitor agent through required disclosures of information in subdivision (b), a review of publicly available information, and a review of nonpublic information available to the program administrator, including the experience of other program administrators if available.

(3) The PACE solicitor agent has completed the introductory training and test required by Financial Code section 22681.

(4) The conditional enrollment time period does not extend beyond the

Contractors State License Board approval or denial of licensure or registration.

(f) A program administrator shall notify the Commissioner of the enrollment of a PACE solicitor agent through an electronic transfer of data as provided in subdivision (d) of rule 1620.11.

(g) If a PACE solicitor agent is not licensed or registered with the CSLB, the program administrator shall maintain documentation in its books and records of the reason licensure as a home improvement salesperson is not required.

(h) If a PACE solicitor agent is not licensed or registered with the CSLB, and the PACE solicitor agent is gathering a property owner's financial information on behalf of a program administrator, the program administrator shall do both of the following:

(1) Implement procedures for the safe handling of the property owner's financial information.

(2) Maintain identifying information for the PACE solicitor agent, such as the PACE solicitor agent's social security number, California identification card or driver license number, or equivalent government issued identification, in its books and records.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22680, 22681, and 22690 Financial Code.

§ 1620.13. Enrollment Denial.

(a) A program administrator shall not enroll a PACE solicitor if as a result of the review of readily and publicly available information regarding the PACE solicitor conducted as part of the program administrator's enrollment process, the program

administrator finds a clear pattern of consumer complaints about the PACE solicitor regarding dishonesty, misrepresentations, or omissions, a high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law. or a clear pattern of the PACE solicitor failing to timely receive and respond to property owner complaints regarding the PACE solicitor.

(b) A clear pattern may be evidenced by recurring complaints regarding the PACE solicitor that allege deception, misrepresentation, or omission, including where the complaints contain information that suggests a pattern of dishonest business practices.

(1) In considering whether a clear pattern of a dishonest business practices exists, the program administrator may consider the volume of complaints relative to the size of the PACE solicitor, the egregiousness of the alleged conduct, the PACE solicitor's response to the allegations, and the PACE solicitor's subsequent resolution of the complaints.

(2) A program administrator shall keep in its books and records documentation that it reviewed readily and publicly available information of consumer complaints about a PACE solicitor regarding dishonesty, misrepresentations, or omissions, and its findings. If the program administrator finds a clear pattern of consumer complaints about the PACE solicitor regarding dishonesty, misrepresentations, or omissions, the program administrator shall not enroll the PACE solicitor. If the program identifies applicable complaints but enrolls the PACE solicitor, the program administrator shall document the rationale for the determination that the consumer complaints regarding dishonesty, misrepresentations, or omissions do not constitute a clear pattern of a dishonest business practice.

(3) For purposes of establishing a clear pattern of consumer complaints about a PACE solicitor, complaints against a PACE solicitor agent employed or retained by a PACE solicitor shall constitute complaints about the PACE solicitor, while the PACE solicitor agent is engaged by the PACE solicitor during the time of the complaints and the subject of the complaints involves acts by the PACE solicitor agent while soliciting property owners on behalf of the PACE solicitor.

(c)(1) A high likelihood that a PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law may be evidenced by one or more of the following, with the severity of the actions determined by the standards of the program administrator:

(A) The readily and publicly available information about the PACE solicitor, such as court records and business or consumer reviews, demonstrate a pattern of disregard for the laws applicable to the PACE solicitor, including compliance under the Contractors State License Law, as applicable.

(B) The information regarding the PACE solicitor obtained during the enrollment process indicates the PACE solicitor has not complied with the requirements for a home improvement contractor under article 10 of chapter 9, division 3 of the Business and Professions Code regarding home improvement contractors, if applicable to the PACE solicitor, such as notifying the CSLB of the employment of a registered home improvement salesperson or otherwise failing to comply with the requirements, and the PACE solicitor is unwilling or unable to bring its operations into compliance for enrollment as a PACE solicitor.

(C)The PACE solicitor, or an individual with control over the operations of the

PACE solicitor, has, within the last 7 years, been convicted of or pleaded nolo contendere to a crime, or committed an act and been held liable in a civil action, involving dishonesty, fraud, or deceit. For purposes of this subparagraph, a program administrator may rely on the background check conducted by the Contractors State License Board.

(D) The PACE solicitor has at any time had its license revoked by the Contractors State License Board or has a complaint on file with the registrar that, at the time of the review conducted as part of the program administrator's enrollment process, is available to the public on the website of the Contractors State License Board pursuant to Business and Professions Code section 7124.6.

(E) The PACE solicitor has a disciplinary action against it by another regulatory agency for failing to comply with applicable law, including an action for fraud, misrepresentation, or deceit.

(F) The PACE solicitor has engaged in elder financial abuse.

(2) A program administrator shall keep in its books and records documentation demonstrating that the program administrator has conducted a review of readily and publicly available information for the purpose of identifying whether there is a high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law, and its findings. Where the review identifies evidence of past noncompliance with applicable law as set forth in paragraph (1), the program administrator either shall not enroll the PACE solicitor or document the reason it has determined the past noncompliance does not establish a high likelihood that a PACE solicitor will solicit assessment contracts in a manner that does not comply with

applicable law.

(3) For purposes of establishing a high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law, the acts of a PACE solicitor agent employed or retained by a PACE solicitor shall be considered if the PACE solicitor agent knows or should have known of the acts.

(d) (1) A clear pattern of a PACE solicitor failing to timely receive and respond to property owner complaints regarding the PACE solicitor may be established by actions by a PACE solicitor such as failing to record multiple complaints; failing to respond to multiple complainants over a sustained period of time, notwithstanding repeated contact by the complainants; or unreasonably delaying the response to, or investigation of, multiple complaints; with the severity of the actions or inaction being determined by the standards of the program administrator.

(2) A program administrator shall keep in its books and records documentation demonstrating that the program administrator has conducted a review of readily and publicly available information for the purpose of identifying whether a PACE solicitor has clear pattern of failing to timely receive and respond to property owner complaints regarding the PACE solicitor, and its findings. Where the review identifies that the PACE solicitor has failed to timely receive and respond to property owner complaints, the program administrator either shall not enroll the PACE solicitor or shall document the reason it has determined the past failures do not constitute a clear pattern of a PACE solicitor failing to timely receive and respond to property owner complaints regarding the PACE solicitor.

(3) For purposes of establishing a clear pattern of a PACE solicitor failing to timely receive and respond to property owner complaints regarding the PACE solicitor, the acts of a PACE solicitor agent employed or retained by a PACE solicitor shall be considered if the PACE solicitor agent knows or should have known of the acts.

(4) For purposes of this subdivision, a program administrator may presume that complaint responses are timely if the PACE solicitor ordinarily acknowledges complaints within three business days and takes actions to reach a resolution of complaints within thirty days, but longer time periods may be appropriate based on the characteristics of the business and the details of the complaints. For purposes of identifying whether longer time periods are timely, a program administrator may consider factors such as, but not limited to, the size and resources of the PACE solicitor, the length of time in business, the product or service of the PACE solicitor, the nature of the complaints received, and whether the PACE solicitor's actions demonstrate an intent to address the complainant's concerns, resolve the complaint, and identify the need for changes to improve business practices.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22680, Financial Code.

§ 1620.14. Monitoring Compliance.

(a) The process established and maintained by a program administrator to promote and evaluate the compliance of a PACE solicitor and PACE solicitor agent with the requirements of applicable law shall be in writing and shall comply with the requirements of this section.

(b) The process shall include a risk-based, commercially reasonable procedure to monitor and test the compliance of PACE solicitors and PACE solicitor agents with the requirements of Financial Code section 22689, subdivision (a).

(1) A risk-based, commercially reasonable procedure shall include different processes for monitoring or testing compliance that are designed to identify potential areas where the solicitation activities of PACE solicitors and PACE solicitor agents are not in compliance with applicable law. If a program administrator relies on samples of data that are intended to identify noncompliance, the program administrator shall have a reasonable basis for determining the adequacy of the sample size. The sample size shall include vulnerable populations such as seniors, non-English speakers, and low-income populations, where applicable. Nothing in this section restricts the monitoring or testing of compliance through sampling unless expressly stated.

(2) The following are examples of commercially reasonable processes for monitoring and testing whether a PACE solicitor or a PACE solicitor agent soliciting property owners is in compliance with the law. The list is not exhaustive, and a program administrator may establish and implement other or additional methods to identify noncompliance.

(A) A program administrator may monitor and test the compliance of PACE solicitors and PACE solicitor agents by posing questions to property owners during the oral confirmation of key terms required under Streets and Highways Code section 5913 or at any other time.

(B) A program administrator may monitor and test the compliance of PACE solicitors and PACE solicitor agents by conducting a confirmation of completion call to property owners.

(C) A program administrator may monitor and test the compliance of a PACE solicitor and PACE solicitor agent through an analysis of the complaints received by the program administrator.

(c) The program administrator shall monitor and test whether a PACE solicitor is maintaining the minimum qualifications required under subdivision (e) of Financial Code section 22680 for enrollment as a PACE solicitor.

(1) For purposes of monitoring and testing whether consumer complaints against a PACE solicitor evidence a clear pattern of consumer complaints about the PACE solicitor regarding dishonesty, misrepresentations, or omissions, the program administrator shall track and review the complaints containing allegations of this conduct. Notwithstanding the ability to monitor and test for compliance through sampling, a program administrator shall track all complaints that allege dishonesty, misrepresentations, or omissions.

(A) In considering evidence of a clear pattern, the program administrator may consider the volume of complaints relative to the size of the PACE solicitor, the egregiousness of the alleged conduct, the PACE solicitor's response to the allegations, and the PACE solicitor's subsequent resolution of the complaints.

(2) For purposes of identifying whether a PACE solicitor's conduct presents a high likelihood that the PACE solicitor will solicit assessment contracts in a manner that does not comply with applicable law, the monitoring and testing shall be designed to

identify the following:

(A) Whether the PACE solicitor has made any untrue statements to the program administrator or to a property owner.

(B) Whether the PACE solicitor has advised or knowingly permitted a property owner to make any untrue statements to the program administrator.

(D) Whether PACE solicitor has had its license revoked by the Contractors State License Board or has a complaint on file with the registrar that is available to the public on the website of the Contractors State License Board pursuant to Business and Professions Code section 7124.6.

(E) Whether the PACE solicitor has a disciplinary action against it by another regulatory agency for fraud, misrepresentation, or deceit.

(F) Whether the PACE solicitor has engaged in elder or dependent adult financial abuse as defined in Welfare and Institutions Code section 15610.30.

(3) For purposes of monitoring and testing whether a PACE solicitor has a clear pattern of failing to timely receive and respond to property owner complaints regarding the PACE solicitor, a clear pattern may be established by actions by a PACE solicitor such as failing to record multiple complaints; failing to respond to multiple complainants over a sustained period of time; or unreasonably delaying the response to, or investigation of, multiple complaints.

(d) The program administrator shall have risk-based, commercially reasonable processes to monitor and test a PACE solicitor's compliance with the following.

(1) Whether a PACE solicitor may be providing a different price for a project financed by a PACE assessment than the solicitor would provide if paid in cash by the

property owner. A program administrator may use commercially available cost guides for guidance.

(2) Whether the PACE solicitor is commencing work prior to the expiration of the right to cancel period.

(e) The process to promote and evaluate the compliance of PACE solicitors and PACE solicitor agents with the requirements of applicable law shall include a procedure to regularly monitor the license or registration status of PACE solicitors and PACE solicitor agents as provided in Financial Code section 22680, paragraph (f)(2).

(1) The regular monitoring of the license or registration status of a PACE solicitor or PACE solicitor agent does not require continuous monitoring.

(2) Except as provided in paragraph (3), a program administrator shall confirm the licensure or registration status of a PACE solicitor or PACE solicitor agent remains in good standing at the following times:

(A) When a PACE solicitor or PACE solicitor agent submits a property owner's application for an assessment contract to the program administrator.

(B) When a program administrator processes a complaint about a PACE solicitor or PACE solicitor agent.

(C) When a program administrator enrolls a PACE solicitor or PACE solicitor agent.

(3) A program administrator that has a process for routinely monitoring the licensure or registration status of a PACE solicitor or PACE solicitor agent remains in good standing not less than once every quarter need not confirm licensure or registration status in the circumstances described in subparagraphs (e)(2)(A) and (B).

(4) The procedure for monitoring the registration status of PACE solicitor agents shall include a process to confirm whether the individuals employed or retained by the PACE solicitor to solicit a property owner to enter into an assessment contract are enrolled by the program administrator as PACE solicitor agents, have complied with the requirements of the training program, and are reported to the Department.

(f) For purposes of promoting and evaluating the compliance of PACE solicitors and PACE solicitor agents with the requirements of applicable law, the actions of a PACE solicitor agent are attributable to the PACE solicitor employing or retaining the PACE solicitor unless the PACE solicitor did not know and reasonably should not have known of the conduct of the PACE solicitor agent, the conduct giving rise to the complaint was not within the scope of the agency relationship with the PACE solicitor, and upon receiving notice of the unauthorized conduct the PACE solicitor took affirmative steps to remedy the harm caused by the conduct, and if warranted by the conduct, the PACE solicitor took timely steps to discontinue the engagement of the PACE solicitor agent in that capacity.

(g) A program administrator shall maintain in its books and records the written process required by this section and documentation that the monitoring and testing required by this section is ongoing.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22680 and 22689, Financial Code.

§ 1620.15. Periodic Review Standards.

(a) The procedures for the periodic review of the solicitation activities of a PACE

solicitor required by paragraph (f)(3) of Financial Code section 22680 shall be in writing and shall be designed by a program administrator to measure a PACE solicitor's compliance with the standards for solicitation activities.

(b) The periodic review procedures shall include the following:

(1) A review of a sampling of advertising related to PACE conducted by the PACE solicitor to ensure representations regarding the PACE program administered by the program administrator are not false or misleading.

(2) An analysis of the controls maintained by the PACE solicitor to ensure a PACE solicitor agent complies with the law that governs soliciting a property owner to enter into an assessment contract, including such controls as written procedures, supervision, reporting, and resolution of complaints. The analysis may be tailored based on the size of the PACE solicitor and the volume of PACE business conducted by the PACE solicitor. The program administrator shall use the information on the controls maintained by the PACE solicitor in determining the level of monitoring required under paragraph (f)(1) of Financial Code section 22680 and section 1620.14 of these rules.

(3) An analysis of a sampling of responses to the open-ended questions during the oral confirmation of key terms telephone call conducted with property owners solicited by the PACE solicitor or its agents, for patterns suggesting potential misrepresentations or omissions.

(4) An analysis of complaints made against the PACE solicitor regarding the solicitation activities of the PACE solicitor, and the resolution of the complaints.

(c) In conducting a periodic review of the solicitation activities of the PACE solicitor, the program administrator shall review a random sampling of assessment contracts to

evaluate whether the PACE solicitor is in compliance with the requirements for solicitation activities, and may include contacting property owners to review the relevant items in this subdivision.

(1) The review shall include an analysis of whether the PACE solicitor is only using PACE financing for authorized efficiency improvements.

(2) The review shall confirm that the home improvement contract with the property owner covers the same work for which the program administrator paid the PACE solicitor, for work that was financed through the assessment contract.

(3) The review shall confirm that efficiency improvements installed are those represented to the program administrator.

(4) The review shall evaluate whether the efficiency improvements financed through the assessment contract were completed as represented, including:

(A) Whether all outstanding permits obtained final approval by a building inspector, if necessary and a part of the home improvement contract financed through the assessment contract.

(B) If solar interconnection was included as part of the scope of work in the home improvement contract financed through the assessment contract, whether solar improvements were interconnected to an electricity provider.

(d) For any sampling of data in the periodic review, the program administrator shall sample an amount of data sufficient to identify whether the PACE solicitor is complying with its agreement with the program administrator and the law, and may rely on algorithms, consumer complaints, PACE volume, compliance monitoring during the assessment contract approval process, and other relevant data identified by the

program administrator to develop the sampling size.

(e)(1) A program administrator shall document that the periodic review was completed and identify the findings made during the periodic review of the solicitation activities of the PACE solicitor. If a program administrator uses a method other than sampling as authorized in subdivision (d), the documentation shall include a description of the processes used to review the PACE solicitor's solicitation activities for compliance with the items in subdivisions (b) and (c) of this section.

(2) The program administrator shall retain the documentation of the periodic review, the findings, alternative review procedures, and any subsequent actions in its books and records in accordance with section 1620.07 of these rules.

(3) The program administrator shall take any other corrective action warranted by the findings from the periodic review, including but not limited to educating PACE solicitors about areas of noncompliance, remedying consumer harm, and disenrolling PACE solicitors.

(A) The periodic review and any corrective action shall be designed to promote compliance through collaboration with PACE solicitors and PACE solicitor agents.

(B) If the periodic review identifies that a PACE solicitor or PACE solicitor agent fails to maintain the minimum qualifications under Financial Code section 22680 and section 1620.13 of these rules, the process shall include the cancellation of enrollment under section 1620.16 of these rules.

(f) (1) A program administrator shall conduct a periodic review of the solicitation activities of a PACE solicitor at least once every two years.

(2) Program administrators who enroll the same PACE solicitors may collaborate on conducting coordinated joint periodic reviews.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22680, Financial Code; Sections 5898.16, 5926, and 5940, Streets and Highways Code.

§ 1620.16. Canceling Enrollment.

(a) A program administrator shall establish and implement a written process for canceling the enrollment of a PACE solicitor or PACE solicitor agent who fails to maintain the minimum qualifications required by Financial Code section 22680 or who violates any provision of the California Financing Law.

(b) The process shall include the following:

(1) Tracking the enrollment of each PACE solicitor and PACE solicitor agent.

(2) Notifying the Commissioner of any change to the enrollment status of each PACE solicitor and PACE solicitor agent.

(c) A program administrator shall notify the Commissioner of a change to the enrollment status of each PACE solicitor and PACE solicitor agent in the manner prescribed in subdivision (d) of section 1620.11 of these rules.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22680 and 22682, Financial Code.

§ 1620.17. Training Program.

(a) (1) The training program for PACE solicitor agents established and maintained by the program administrator shall comply with the requirements of Financial Code section 22681 and this rule.

(2) A program administrator that does not administer assessment contracts for efficiency improvements on residential real property with four or fewer units does not need to comply with this rule.

(3) The training program consists of three parts:

(A) The introductory training addressing the topics in subdivision (c) of Financial Code section 22681, which must be completed as part of the enrollment process for PACE solicitor agents.

(B) The passage of a test that measures the PACE solicitor agent's knowledge and comprehension of the training material.

(C) Six hours of education that a PACE solicitor agent must complete within three months of completing the enrollment process.

(4) A program administrator may combine the introductory training and the six hours of education provided that the combined training occurs upon enrollment and before the PACE solicitor agent engages in the business of a PACE solicitor agent.

(b) A program administrator may establish a training program by acquiring a training program from a third party.

(1) A program administrator that acquires a training program from a third party must verify that the training program meets the minimum requirements of the California Financing Law and these rules.

(2) A program administrator may arrange with a third party to provide training to PACE solicitor agents.

(3) A program administrator that provides training to a PACE solicitor agent through a third party remains responsible for ensuring that each PACE solicitor agent

completes the required six hours of education within three months of completing the program administrator's enrollment process.

(4) Upon notice to the Commissioner, a program administrator may use a training program that has been established by a different program administrator, provided that the program administrator establishing the training program consents to its use.

(c) A PACE solicitor agent that has completed a training program for a program administrator need not complete training for another program administrator, provided that the program administrator providing the training has consented to its use by the other program administrator.

(1) A program administrator shall keep in its books and records evidence, under section 1620.07 of these rules, that a PACE solicitor agent enrolled by the program administrator has completed the required introductory training, including passing the test as part of the training, and the six hours of education. The records shall include the dates of completion.

(2) (A) Upon completion of a training program, a program administrator shall provide a PACE solicitor agent a certificate that documents completion of the training program, the date of completion, and the identity of all the program administrators for whom the certificate is applicable.

(B) A program administrator that uses a training program established by another program administrator shall provide a PACE solicitor agent a certificate that documents completion of the training program, the date of completion, the name of the program administrator from whom the program administrator acquired the training

program, and the date of acquisition of the right to use the training program.

(d) Each program administrator shall provide each enrolled PACE solicitor agent with information on changes to the PACE program and any changes to previous training material, as the information is changed, but no less frequently than annually. The information may be provided through the PACE solicitor.

(e) The six hours of education provided by the program administrator shall include the following topics and information:

(1) PACE programs and assessment contracts.

(A) Training on this topic must include the following information on PACE programs and assessments:

1. The consequences of the first lien position, including the risk that if the property owner is unable to pay the property taxes, the mortgagee will pay on the property owner's behalf and may then be in a position to foreclose on the property if the property owner cannot pay the mortgagee.

2. The role of public agencies, including local agencies authorizing PACE programs, local agencies and joint powers authorities administering PACE programs, and county tax collectors and assessors billing and collecting PACE assessments.

3. The treatment of PACE assessments by federal housing finance agencies.

4. The risks to property owners, including the risk that the property owner may be breaching the property owner's mortgage agreement by allowing a PACE lien.

5. The potential barriers to property transfers, such as a potential buyer or buyer's mortgagee requiring that the PACE lien be paid off upon sale, and the accompanying risk of prepayment penalties.

6. The potential barriers to refinancing property with a PACE lien, including the risk that the mortgagee will require the PACE lien be paid off before refinancing the property.

7. The potential for a property owner's mortgagee to increase the amount of funds required to be escrowed monthly for the payment of property taxes.

8. The requirements under division 7 of the Streets and Highways Code not otherwise identified in this section.

9. The general requirements under the California Financing Law.

(B) In addition, the program administrator may include the following:

1. The origin of PACE programs.

2. The public benefits behind PACE programs.

(2) PACE disclosures.

(A) This topic must provide information on the required disclosures when a property owner finances efficiency improvements through an assessment contract, including the following:

1. The Financing Estimate and Disclosure Form required by Streets and Highways Code section 5898.17, including an explanation of how the finance charges required to be disclosed in the home improvement contract under Business and Professions Code section 7159.5 may be affected by the PACE assessment contract.

2. The three-day or five-day Right to Cancel notice required by Streets and Highways Code section 5898.16.

3. The oral disclosures required by Streets and Highways Code section 5913.

(B) This topic shall also include information on the following subjects as they relate to PACE financing.

1. Repayment terms

2. The assessment process, including the need for a PACE solicitor agent to disclose to a property owner that the home improvements will be paid back through a special assessment that will appear on the property owner's property tax bill that must be paid by the property owner.

3. Interest on assessment contracts

4. Fees on assessment contracts

5. Penalty and interest for late payments

6. The prohibition of assessment contracts on property subject to a reverse mortgage.

(3) Ethics. In addition to providing education on ethics with respect to PACE financing solicitations, this topic shall include information on the following.

(A) The prohibition on incentives provided in Streets and Highways Code section 5923 and Business and Professions Code section 7157, as applicable to PACE financing.

(B) The restriction on PACE pricing under Streets and Highways Code section 5926.

(4) Fraud prevention. In addition to providing education on fraud prevention, the training on this topic shall provide information on the following potential areas of misrepresentation or omissions in connection with PACE financing.

(A) Government sponsorship

(B) Tax benefits

(C) Repayment obligation

(D) Potential effects of PACE assessments on refinancing a mortgage

(E) Potential effects of PACE assessments on a property sale

(5) Consumer protection. The training under this topic must provide information on property owner protections under section 1620.10 of these rules. Training shall also include information on the following:

(A) The potential negative consequences of a hard inquiry on a property owner's credit file pulled from a credit reporting agency.

(B) The need to identify whether the property is subject to a reverse mortgage.

(6) Nondiscrimination. This topic must provide information on the following.

(A) Protected classes

(B) Unruh Civil Rights Act

(7) Elder and dependent adult financial abuse. For purposes of this paragraph, elder and dependent adult financial abuse shall have the same meaning as in Welfare and Institutions Code section 15610.30. This topic must provide information on the following.

(A) Activities that constitute elder and dependent adult financial abuse

(B) Special protections in law

(C) Mandatory reporters (individuals with a mandatory duty to report known or suspected abuse)

(D) Ways to avoid targeting seniors

(E) How to report suspected abuse

(f) The training may be developed based on materials from nationally recognized organizations with expertise in the specific areas.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22681, Financial Code.

§ 1620.19. Annual Report Data.

(a) A program administrator shall by March 15 of each year report the following information for activity from the prior calendar year:

(1) The aggregate information required under Streets and Highways Code section 5954.

(2) The following additional information:

(A) The number of tax sales or foreclosures that were reported to the program administrator during the prior calendar year, on property subject to a PACE assessment initiated by the public agency, a program administrator, or any other person as the result of the nonpayment of PACE assessments. Include the year of the assessment contract, the original amount of the assessment contract, the zip code, the amount owed upon the tax sale or foreclosure, the purchase price paid for the property at sale or auction, and the amount recovered by the program administrator.

(B) The aggregate average and median market value of property that is encumbered by mortgage-related and PACE assessments, at the time of the assessment contract, for all assessment contracts entered into during the prior calendar year on residential property.

(C) The number of PACE solicitors, and the number of PACE solicitor agents, enrolled by the program administrator as of December 31.

(D) 1. For assessment contracts originated by a program administrator during the prior calendar year, the total number of assessment contracts with interest rates (i) up to 14.999 percent per year; (ii) at or above 15 percent but at or below 19.999 percent per year; (iii) at or above 20 percent but at or below 24.999 percent per year; (iv) at or above 25 percent but at or below 29.999 percent per year; (v) at or above 30 percent but at or below 34.999 percent per year; (vi) at or above 35 percent but at or below 39.999 percent per year; (vii) at or above 40 percent but at or below 69.999 percent per year; (viii) at or above 70 percent but at or below 99.999 per year; and (iv) at or above 100 percent per year.

2. For assessment contracts originated by a program administrator during the prior calendar year, the aggregate total fees and other charges assessed to the various property owners that were not included in the interest rate.

3. For assessment contracts originated by a program administrator during the prior calendar year, the total number of assessment contracts where the PACE solicitor paid the program administrator a portion of the assessment contract as a buydown fee, a contractor payment, seller's points, or as any other type of payment; the aggregate amount of the payments; and the average and median amount of the

payments.

(E) The average and median term of the assessment contracts entered into in the prior year, in years.

(F) 1. The number of PACE assessments that were funded and recorded under the emergency procedures in Financial Code section 22687, subdivision (e) the prior year, by zip code, and the number of HVAC systems, boilers, or other temperature regulation systems funded not in the case of emergency or immediate necessity, by zip code.

2. The number of PACE assessments that were funded and recorded under the emergency procedures in Financial Code section 22687, subdivision (e) the prior year by type of improvement, and the average cost of each type of improvement.

(G) For all PACE assessments 12 months or more delinquent on December 31 of the prior year, provide the following information:

1. The number of PACE assessments above the 97 percent cap on total PACE and mortgage-related debt at the time the assessment contract was entered into; the number of PACE assessments at or below the 97 percent cap on total PACE and mortgage-related debt, but above 87 percent, at the time the assessment contract was entered into; and the number of PACE assessments where the PACE and mortgage related debt of the property owner was below 87 percent of the value of the property at the time the assessment contract was entered.

2. The number of PACE assessments for which an automated valuation model was used to determine the market value of the property subject to the PACE assessment; the number of PACE assessments for which an appraisal was

conducted to determine the market value of the property subject to the PACE assessment; and the number of PACE assessments where a property valuation was not obtained, if any.

3. The number of PACE assessments involving a case of emergency or immediate necessity under Financial Code section 22687, subdivision (e), where the program administrator did not determine and consider the current and reasonably expected income or assets of the property owner prior in accordance with Financial Code section 22687, subdivision (b).

4. The average and median residual income of the property owners upon entering into the assessment contract, at the time the assessment contracts were entered into.

(H) Updates of information required to be disclosed under section 1409 of these rules on officers, directors, managing members, or other key personnel, and information on the gross income of the program administrator for purposes of the annual assessment under Financial Code section 22107.

(I) The number of PACE assessments canceled within three or five days, as applicable, as provided under Streets and Highways Code section 5898.16.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22107, 22159, 22687, and 22692, Financial Code; Section 5898.16, Streets and Highways Code.

§ 1620.21. Ability to Pay Determinations.

(a) A program administrator shall maintain written procedures for determining

whether a property owner has a reasonable ability to pay the annual payment obligations for the PACE assessment as required under Financial Code sections 22686 and 22687, which shall include the following:

(1) The criteria used for identifying whether a property owner has sufficient residual income to meet basic living expenses.

(2) The criteria used for determining whether income is from a temporary source.

(3) The criteria used for determining whether assets are liquid.

(4) Any assumptions included in the determination, such as the continuation of, or growth of, income, the continuation or extinguishment of debt, and the continuation or extinguishment of any basic household living expenses.

(5) If the program administrator allows exceptions to any of its criteria for determining a property owner's ability to pay the property owner's PACE assessment obligations, the nature of any permissible exceptions and the conditions allowing for the exceptions.

(b) (1) A program administrator may not base employee compensation on a positive determination of a property owner's reasonable ability to pay the annual payment obligations for the PACE assessment.

(2) The prohibition in paragraph (b)(1) shall apply to any person making an ability to pay determination and any person with the ability to overturn an ability to pay determination.

(3) This section shall not restrict an employee from participating in any stock, bonus, or similar incentive plan that is generally available to employees nor any other

type of compensation plan that is not specifically contingent on the outcome of ability to pay determinations.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22686 and 22687, Financial Code.

§ 1620.22. Property Owner Income.

(a) (1) The reasonable good faith determination of whether a property owner has a reasonable ability to pay the annual assessment shall be made and documented independently from any statement by a property owner regarding whether the property owner has the ability to pay the annual payment obligations under an assessment contract.

(2) This subdivision shall not be applicable in the case of emergency or immediate necessity under subdivision (e) of Financial Code section 22687.

(b) In determining a property owner's current or reasonably expected income, the following principles apply.

(1) The examples of the records that a program administrator may use to verify a property owner's income or assets in subdivision (b)(1) of Financial Code section 22687 are not exhaustive.

(2) A temporary source of income under subparagraph (b)(2)(A) of Financial Code section 22687 includes income that it reasonably may be concluded will not continue during the foreseeable future.

(3) The property owner's household income may only include the incomes of the persons identified in subdivision (a) of Financial Code section 22687. If other

members of the property owner's household are paying rent or board to the property owner, this income shall be verified through a written rental agreement and reasonably reliable third-party records that demonstrate the property owner's receipt of such income for at least the prior six months. If a written rental agreement is unavailable, an agreement may be verified through the written statement of the individual renting or boarding from the property owner and evidence that the renter or boarder has resided in the property owner's household for at least the prior six months.

(4) Rental income for properties other than the property owner's household may be included in determining income provided that the all mortgage principal and interest payments, insurance, property taxes, mortgage guaranty insurance, and other preexisting fees and assessments for the rental property are subtracted from gross rental receipts before such income is included in the property owner's total income.

(5) A program administrator shall not determine the income of a property owner based on predictive or estimation methodologies that are not specific to the income of the property owner, such as, but not limited to, methodologies that estimate income based on average incomes in the property owner's geographic location, or average wages paid by the property owner's employer.

(6) Nonliquid assets under subparagraph (b)(2)(B) of Financial Code section 22687 include assets, such as funds in retirement accounts, that would result in a financial penalty for a property owner if withdrawn or liquidated.

(7) Funds received from a reverse mortgage shall not constitute income.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22686 and 22687, Financial Code.

§ 1620.25. Emergency.

The installation of the following products does not constitute an emergency or immediate necessity: cool coat paint, window replacements, or a cool roof. This list is not exhaustive.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22687, Financial Code; Sections 5898.16 and 5940, Streets and Highways Code.

§ 1620.27. Automated Valuation Model.

(a) A program administrator shall maintain in its books and records under section 1620.07 of these rules evidence documenting the confidence scores and estimated values for all the automated valuation models used to derive the market value of each property subject to a PACE assessment.

(b) The disclosure to the property owner of the market value determination for the property required under subdivision (b) of Financial Code section 22685 prior to the signing of the assessment contract shall be in writing.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22684 and 22685, Financial Code; Section 5898.16, Streets and Highways Code.

§ 1620.28. Useful Life of Improvement.

A program administrator shall base the determination of the useful life of the efficiency improvement as of the date of the execution of the assessment contract and shall maintain documentation of the useful life of the efficiency improvement in its books and records in accordance with section 1620.07 of these rules.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22684,

Financial Code.

§ 1620.29. Commercially Reasonable.

(a) The verification of criteria for submitting, presenting, or otherwise approving for recordation an assessment contract under subdivision (l) of Financial Code section 22684 is “commercially reasonable and available” in the following circumstances.

(1) The verification relied on public records, including property tax records, county assessor records, court filings, and information made available on government websites.

(2) The verification relied on information supplied in credit reports prepared by national credit reporting agencies.

(3) The verification relied on the market value of property determined in compliance with subdivision (a) of Financial Code section 22685.

(4) The verification relied on mortgage statements.

(b) If the program administrator does not verify the criteria in Financial Code section 22684 through the commercially reasonable and available sources identified in subdivision (a), the program administrator shall identify the source of the information in the records related to the assessment contract maintained under section 1620.07 of these rules. This paragraph shall not be applicable to any criteria where Financial Code section 22684 requires or authorizes the verification directly with the property owner.

(c) Property tax payment histories are a commercially reasonable and available method to verify some of the criteria in Financial Code section 22684 and a program administrator shall use these records as one source of verification unless the payment

tax history is unavailable at the time or Financial Code section 22684 authorizes verification directly from the property owner.

(d) The verification shall include confirmation with the PACE solicitor that the PACE solicitor has notified the program administrator of any other PACE assessment on the property known to the PACE solicitor.

(e) The verification methods identified in this rule are non-exhaustive and permissive.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22684, Financial Code.

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