

## Assembly Bill No. 2433

### CHAPTER 188

An act to amend Sections 25249, 25250, 25251, 29542, 31406, and 31407 of the Corporations Code, and to amend Sections 2148, 12307.2, 17415, 17602, 17603, 17604, 22690, 22707.5, 22712, 28158, 28164, 50321, 50322, and 50323 of the Financial Code, relating to business.

[Approved by Governor August 26, 2022. Filed with Secretary of State August 26, 2022.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2433, Grayson. Department of Financial Protection and Innovation: unlawful practices.

(1) Existing law establishes the Department of Financial Protection and Innovation in the Business, Consumer Services, and Housing Agency, headed by the Commissioner of Financial Protection and Innovation. Under existing law, the commissioner and the department are charged with oversight and enforcement of various laws, including the Corporate Securities Law of 1968. That law authorizes the commissioner, after examination and investigation, the commissioner has reasonable grounds to believe that a broker-dealer or investment advisor has violated a law or rule, to direct by written order the discontinuance of the violation.

This bill would also provide that the commissioner may act in the above circumstances after reasonable grounds to believe that a broker-dealer or investment advisor is violating a law or rule.

The Corporate Securities Law of 1968 also permits the commissioner, if, after examination or investigation, the commissioner has reasonable grounds to believe that a broker-dealer or investment advisor, except in specified circumstances, is conducting business in an unsafe or injurious manner to direct the discontinuance of the unsafe or injurious practices.

This bill would specify that the commissioner may also act in the above circumstances upon having reasonable grounds to believe that a broker-dealer or investment advisor has conducted business in an unsafe or injurious manner.

Existing law prohibits an order for a violation of the above-described provisions from becoming final until after notice to the affected broker-dealer or investment advisor of the commissioner's intention to make the order final and of the reasons for the finding.

This bill would make related, conforming changes to these provisions regarding violations and unsafe or injurious practices.

(2) The California Commodity Law of 1990 grants the commissioner power to order a person who is engaging in an activity in violation of that

law or rule or order thereunder, to order the person to desist and refrain from the activity, as prescribed.

This bill would revise that provision to specify that the commissioner's power under these circumstances includes when a person has engaged in activity in violation of any provision of that law or rule or order under that law.

(3) The Franchise Investment Law authorizes the commissioner to issue a citation to a person when the commissioner has cause to believe that a person is violating any provision of that law or any rule or order promulgated pursuant to that law, as prescribed.

This bill would specify that the commissioner may also issue a citation to a person in these circumstances when the commission has cause to believe that a person has violated that law.

The Franchise Investment Law also authorizes the commissioner, after examination or investigation, if the commissioner has reasonable grounds to believe that a person is conducting business in violation of any provision of this law or related rule or order to direct the discontinuance of the violation by written order, as specified.

This bill would provide that the commissioner may also issue an order in these circumstances when the commissioner has reasonable grounds to believe that a person has conducted business in violation of any provision of this law or related rule or order.

Under that law, an order issued does not become final except after notice to the affected person of the commissioner's intention to make the order final and of the reasons for the finding. Existing law also establishes procedures governing a hearing under these circumstances. If, upon conclusion of the hearing, it appears to the commissioner that the person is violating any provision of the law or related rule or binding order, the commissioner is required to make the order of the discontinuance final and the person is required to immediately discontinue the practices named in the order.

This bill would specify that the commissioner may also make the order of discontinuance final and the person is required to immediately discontinue the practices named in the order if it appears to the commissioner, upon conclusion of the hearing, that the person has violated any provision of this law or any related rule or binding order.

(4) The Money Transmission Act permits the commissioner, if it appears to the commissioner that a licensee is violating or failing to comply with any state law, to direct the licensee to comply with the law by order, or if it appears that any licensee is conducting its business in an unsafe or injurious manner, to direct the discontinuance of the unsafe or injurious practices.

This bill would specify that the commissioner may act in the above circumstances and direct the licensee to comply with the law if it appears to the commissioner that a licensee has violated or has failed to comply with any law of this state. The bill would also authorize the commissioner, if it appears to the commissioner that a licensee has conducted its business in

an unsafe or injurious manner, to direct it to discontinue the unsafe or injurious practices.

The act further authorizes the commissioner, after holding a hearing concerning the above acts and finding that the licensee is violating or failing to comply with any state law or is conducting its business in an unsafe or injurious manner, to make a final order directing the licensee to comply with the law or discontinue the unsafe or injurious practices, as prescribed.

This bill would also specify that the commissioner may act to issue a final order in the above circumstances upon finding that the licensee has violated or has failed to comply with any state law or has conducted its business in an unsafe or injurious manner.

(5) Existing law establishes provisions governing the regulation and licensing of check sellers, bill payers, and proraters by the Commissioner of Financial Protection and Innovation. Under that law, if the commissioner finds, as a result of an examination or report, that a licensee is insolvent or is conducting business in such an unsafe or injurious manner as to render its further operations hazardous to the public, the commissioner may, by order addressed to and served on the licensee and on any other person having the licensee's funds or customer's in their possession, direct discontinuance of the disbursement of those funds and further conduct of business by the licensee.

This bill would also permit the commissioner to act in the above circumstances upon finding that the licensee has been insolvent or has conducted business in such an unsafe or injurious manner as to render its further operations hazardous to the public.

(6) The Escrow Law authorizes the commissioner, upon finding that a person subject to that law is in an insolvent condition, is conducting escrow business in such an unsafe or injurious manner as to render further operations hazardous to the public or to customers, has failed to comply with certain provisions, has permitted its tangible net worth to be lower than the legal required minimum, has failed to maintain its liquid assets in excess of current liabilities, or has failed to comply with bonding requirements, to, by order, take specified steps related to the discontinuance of the disbursement of trust funds and other escrow business operations.

This bill would specify that the commissioner also may act in the above circumstances after finding that a person subject to that law has conducted escrow business in such an unsafe or injurious manner as to render further operations hazardous to the public, is failing to comply with specified provisions, is permitting its tangible net worth to be lower than the legal required minimum, is failing to maintain its liquid assets in excess of current liabilities, or is failing to comply with the bonding requirements of this law.

The Escrow Law requires the commissioner, by written order, if it appears to the commissioner that a licensed escrow agent has violated its articles of incorporation, or any law or binding rule, to direct the discontinuance of the violation.

This bill would also require the commissioner to act in the above circumstances if it appears to the commissioner that a licensed escrow agent is violating its articles of incorporation or any law or binding rule.

The Escrow Law requires the commissioner, if it appears to the commissioner that a licensed escrow agent is conducting business in an unsafe or injurious manner, to direct by written order to the agent the discontinuance of the unsafe or injurious practices.

This bill would also require the commissioner to act in these circumstances if it appears to the commissioner that a licensed escrow agent has conducted business in an unsafe or injurious manner.

The Escrow Law prohibits an order issued under the above specified circumstances from becoming final except after notice to the licensed escrow agent affected and pursuant a hearing in accordance with certain procedures. Existing law requires the commissioner, if upon hearing it appears to the commissioner that the licensed agent is conducting business in an unsafe or injurious manner or is violated its articles of incorporation or state law or binding rule, to make the order of discontinuance final and require the licensed escrow agent to immediately discontinue the practices named in the order.

This bill would also require the commissioner to act in the above circumstances if, upon the hearing, it appears to the commissioner that the licensed agent has conducted business in an unsafe or injurious manner or has violated its articles of incorporation or state law or binding rule.

(7) The California Financing Law (CFL) provides for the licensure and regulation of finance lenders, brokers, and specified program administrators by the Commissioner of Financial Protection and Innovation. This law authorizes the commissioner, upon having cause to believe that a licensee or other person is violating the CFL, to issue a citation to the licensee or person and to assess an administrative fine, as specified.

This bill would also authorize the commissioner to act in the above circumstances upon having cause to believe that a licensee or other person has violated the CFL.

The CFL also regulates certain persons acting under the Property Assessed Clean Energy (PACE) program, including PACE solicitors and PACE solicitor agents, as defined. Under that law, if the commissioner, upon inspection, examination, or investigation, has cause to believe that a PACE solicitor or PACE solicitor agent is violating any provision of that law, or rule or order thereunder, the commissioner or their designee is required to exhaust a specified procedure before bringing an action.

This bill would also specify that the above procedures apply when the commissioner has cause to believe that a PACE solicitor or solicitor agent has violated any provision of that law or rule or order thereunder.

The CFL authorizes the commissioner, whenever in the commissioner's opinion a person is engaged in business as a finance lender, broker, program administrator, or mortgage loan originator, as defined, without a licensee from the commissioner or violates any provision of this division, any provision of an order, or any adopted regulation under the CFL, to order

the person or licensee to desist and to refrain from engaging in the business or further continuing that violation.

This bill would specify that the commissioner may act in the above circumstances whenever, in the commissioner's opinion, any person is engaged or has engaged in business as a finance lender, broker, program administrator, or mortgage originator, without a license from the commissioner or a licensee is violating or has violated any provision of this division.

The CFL requires the commissioner, if, after investigation, the commissioner has reasonable grounds to believe that a person is conducting business in an unsafe or injurious manner, to direct, by written order, the discontinuance of the unsafe or injurious practices.

This bill would specify that these procedures also apply if, after investigation, the commissioner has reasonable grounds to believe that a person has conducted business in an unsafe or injurious manner.

(8) The Student Loan Servicing Act provides for the licensure, regulation, and oversight of student loan servicers by the commissioner. The act requires the commissioner, upon having reasonable grounds after investigation to believe that a licensee is conducting business in an unsafe or injurious manner, to direct, by written order, the discontinuance of the unsafe or injurious practices.

This bill would specify that these procedures also apply if, after investigation, the commissioner has reasonable grounds to believe that a licensee has conducted business in an unsafe or injurious manner.

Under the act, an order issued by the commissioner does not become final except after specified notice is provided to the licensee, and subject to a hearing on the matter in accordance with certain procedures. Existing law requires the commissioner, if, upon the hearing, it appears to the commissioner that the licensee is conducting or has conducted business in an unsafe and injurious manner or is failing to comply with the act, to make the order of discontinuance of those practices final.

This bill would specify that these procedures also apply if it appears to the commissioner that the licensee has failed to comply with the act.

(9) The California Residential Mortgage Lending Act requires the commissioner, if, after investigation, the commissioner has reasonable grounds to believe that a licensee under the act has violated its articles of incorporation or any law or binding rule, to, by written order, direct the discontinuance of the violation.

This bill would specify that the above procedures also apply if, after investigation, the commissioner has reasonable grounds to believe that a licensee is violating its articles of incorporation or any law or binding rule.

The act also requires the commissioner, if, after investigation, the commissioner has reasonable grounds to believe that a licensee is conducting business in an unsafe or injurious manner, to, by written order, direct the discontinuance of the unsafe or injurious practices.

This bill would specify that the above procedures also apply if, after investigation, the commissioner has reasonable grounds to believe that a licensee has conducted business in an unsafe or injurious manner.

The act prohibits an order issued under both of the above circumstances from becoming final except after notice to the affected licensee of the commissioner's intention to make the order final and of the reasons for the finding and opportunity for licensee to have the matter set for hearing, as prescribed. Existing law requires the commissioner, if, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any state law or binding rule, to make the order of discontinuance final and require the licensee to immediately discontinue the practices named in the order.

This bill would also specify that if, upon the hearing, it appears to the commissioner that the licensee has conducted business in an unsafe and injurious manner or has violated its articles of incorporation or any state law or binding rule, to make the order of discontinuance final and require the licensee to immediately discontinue the practices named in the order.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25249 of the Corporations Code is amended to read:

25249. If, after examination or investigation, the commissioner has reasonable grounds to believe that any broker-dealer or investment adviser is violating or has violated any law or rule binding upon it, the commissioner shall, by written order addressed to the broker-dealer or investment adviser, direct the discontinuance of the violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 25251.

SEC. 2. Section 25250 of the Corporations Code is amended to read:

25250. If, after examination or investigation, the commissioner has reasonable grounds to believe that any broker-dealer or investment adviser, other than an investment adviser subject to Section 25230.1, is conducting or has conducted business in an unsafe or injurious manner, the commissioner shall, by written order addressed to the broker-dealer or investment adviser, direct the discontinuance of the unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 25251.

SEC. 3. Section 25251 of the Corporations Code is amended to read:

25251. (a) No order issued pursuant to Section 25249 or 25250 may become final except after notice to the affected broker-dealer or investment adviser of the commissioner's intention to make the order final and of the reasons for the finding. The commissioner shall also notify the broker-dealer or investment adviser that upon receiving a request the matter shall be set for hearing to commence within 15 business days after receipt of the request.

The broker-dealer or investment adviser may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without a hearing and the broker-dealer or investment adviser shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act. If, upon the conclusion of the hearing, it appears to the commissioner that the broker-dealer or investment adviser is conducting or has conducted business in an unsafe and injurious manner or is violating or has violated any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the broker-dealer or investment adviser shall immediately discontinue the practices named in the order.

(b) The broker-dealer or investment adviser may within 10 days after an order is made final commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the broker-dealer or investment adviser shall comply with the order.

SEC. 4. Section 29542 of the Corporations Code is amended to read:

29542. (a) If, in the opinion of the commissioner, any person is engaging or has engaged in any activity in violation of any provision of this law, or rule or order under this law, the commissioner may order the person to desist and refrain from the activity unless and until the activity will not be in violation of any provision of this law or any rule or order under this law.

(b) If after an order has been made under subdivision (a), a request for hearing is filed in writing within 30 days of the date of service of the order by the person to whom the order was directed, a hearing shall be held in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under the Administrative Procedure Act. Unless the hearing is commenced within 15 business days after the request is filed (or the person affected consents to a later date), the order is rescinded.

If that person fails to file a written request for a hearing within 30 days from the date of service of the order, the order shall be deemed a final order of the commissioner and shall not be subject to review by any court or agency, notwithstanding Section 29563.

SEC. 5. Section 31406 of the Corporations Code is amended to read:

31406. (a) If, upon inspection or investigation, based upon a complaint or otherwise, the commissioner has cause to believe that a person is violating or has violated any provision of this division or any rule or order promulgated pursuant to this division, the commissioner may issue a citation to that person in writing describing with particularity the basis of the citation. Each citation may contain an order to desist and refrain and an assessment of an

administrative penalty not to exceed two thousand five hundred dollars (\$2,500) per violation and shall contain reference to this section, including the provisions of subdivision (c). All penalties collected under this section shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If within 60 days from the receipt of the citation, the person cited fails to notify the commissioner that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) After the exhaustion of the review procedures provided for in this section, the commissioner may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the commissioner. The application shall include a certified copy of the final order of the commissioner and shall constitute a sufficient showing to warrant the issuance of the judgment and order.

SEC. 6. Section 31407 of the Corporations Code is amended to read:

31407. (a) If, after examination or investigation, the commissioner has reasonable grounds to believe that any person is conducting or has conducted business in violation of any provision of this division or related rule or order binding upon it, the commissioner may, by written order addressed to the person, direct the discontinuance of the violation. The order shall be effective immediately, but shall not become final except in accordance with subdivision (b).

(b) An order issued pursuant to this section shall not become final except after notice to the affected person of the commissioner's intention to make the order final and of the reasons for the finding. The commissioner shall also notify the person that upon receiving a request the matter shall be set for hearing to commence within 15 business days after receipt of the request. The person may consent to have the hearing commence at a later date. If no hearing is requested within 60 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without a hearing and that person shall immediately discontinue the practices named in the order. If a hearing is requested or ordered it shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the powers granted under that chapter. If, upon the conclusion of the hearing, it appears to the commissioner that the person is violating or has violated any provision of this division or any related rule or order binding upon it, the commissioner shall make the order of discontinuance final and the person shall immediately discontinue the practices named in the order.

SEC. 7. Section 2148 of the Financial Code is amended to read:

2148. (a) If it appears to the commissioner that a licensee is violating or has violated, or is failing or has failed to comply with any law of this state, the commissioner may direct the licensee to comply with the law by an order issued under the commissioner's official seal, or if it appears to the commissioner that any licensee is conducting or has conducted its business in an unsafe or injurious manner, the commissioner may in like manner direct it to discontinue the unsafe or injurious practices. The order shall require the licensee to show cause before the commissioner, at a time and place to be fixed by the commissioner, as to why the order should not be observed.

(b) If, upon any hearing held pursuant to subdivision (a), the commissioner finds that the licensee is violating or has violated, or is failing or has failed to comply with any law of this state or is conducting or has conducted its business in an unsafe or injurious manner, the commissioner may make a final order directing it to comply with the law or to discontinue the unsafe or injurious practices. A licensee shall comply with the final order unless, within 10 days after the issuance of the order, its enforcement is restrained in a proceeding brought by the licensee.

SEC. 8. Section 12307.2 of the Financial Code is amended to read:

12307.2. If the commissioner finds as a result of an examination or report that a licensee is insolvent or has been insolvent or is conducting or has conducted business in such an unsafe or injurious manner as to render its further operations hazardous to the public, the commissioner may forthwith by an order addressed to and served on the licensee by registered mail and on any other person having funds of the licensee or its customers in their possession, direct discontinuance of the disbursement of such funds and the further conduct of business by the licensee. The order shall be conditioned to remain in effect unless the commissioner fails to hold a hearing within 15 days after receipt of a written request by the licensee, until set aside by the commissioner in whole or in part, until the licensee is the subject of an order for relief in bankruptcy, or pursuant to a petition filed by the commissioner or other interested person a receiver has been appointed by a court of competent jurisdiction.

SEC. 9. Section 17415 of the Financial Code is amended to read:

17415. (a) If the commissioner, as a result of any examination or from any report made to the commissioner, shall find that any person subject to this division is in an insolvent condition, is conducting or has conducted escrow business in such an unsafe or injurious manner as to render further operations hazardous to the public or to customers, is failing or has failed to comply with the provisions of Section 17212.1 or 17414.1, is permitting or has permitted its tangible net worth to be lower than the minimum required by law, is failing or has failed to maintain its liquid assets in excess of current liabilities as set forth in Section 17210, or is failing or has failed to comply with the bonding requirements of Chapter 2 (commencing with Section 17200) of this division, the commissioner may, by an order addressed to and served by registered or certified mail or by personal service on such person and on any other person having in their possession or control any

escrowed funds, trust funds, or other property deposited in escrow with said person, direct discontinuance of the disbursement of trust funds by the parties or any of them, the receipt of trust funds, the delivery or recording of documents received in escrow, or other business operations. No person having in their possession any of these funds or documents shall be liable for failure to comply with the order unless they received written notice of the order. Subject to subdivision (b), the order shall remain in effect until set aside by the commissioner in whole or in part, the person is the subject of an order for relief in bankruptcy, or pursuant to Chapter 6 (commencing with Section 17621) of this division the commissioner has assumed possession of the escrow agent.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

SEC. 10. Section 17602 of the Financial Code is amended to read:

17602. If it appears to the commissioner that any licensed escrow agent is violating or has violated its articles of incorporation, or any law or rule binding upon it, the commissioner shall, by written order addressed to the agent direct the discontinuance of such violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 17604.

SEC. 11. Section 17603 of the Financial Code is amended to read:

17603. If it appears to the commissioner that any licensed escrow agent is conducting or has conducted business in an unsafe or injurious manner, the commissioner shall, by written order addressed to the agent direct the discontinuance of such unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 17604.

SEC. 12. Section 17604 of the Financial Code is amended to read:

17604. No order issued pursuant to Sections 17602 or 17603 may become final except after notice to any licensed escrow agent affected thereby of the intention of the commissioner to make such order final and of the reasons therefor and that upon receipt of a request the matter will be set down for hearing to commence within 15 business days after such receipt unless the licensed agent affected consents to a later date. If no hearing is requested within 30 days after the mailing of such notice and none is ordered by the commissioner, the order may become final without hearing and the licensed escrow agent shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing

with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the powers granted thereunder. If upon the hearing, it appears to the commissioner that the licensed agent is conducting or has conducted business in an unsafe and injurious manner or is violating or has violated its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensed escrow agent shall immediately discontinue the practices named in the order.

SEC. 13. Section 22690 of the Financial Code is amended to read:

22690. (a) A program administrator is subject to an inspection, examination, or investigation in accordance with Section 22701.

(b) If, in the course of an inspection, examination, or investigation of a program administrator, the commissioner has cause to believe that the program administrator, the PACE solicitor, or the PACE solicitor agent may have committed a violation of this division or any rule or order thereunder, or the commissioner seeks to obtain or provide information necessary to the commissioner in the administration of the division, with respect to a matter related to a PACE solicitor or PACE solicitor agent, and either this information is not available directly from the program administrator or the commissioner seeks to validate the information obtained from the program administrator, the commissioner may do the following:

(1) Inspect, examine, or investigate any and all documents, records, files, and communications of the PACE solicitor or PACE solicitor agent that are relevant to the violation or the matter. For purposes of the inspection, examination, or investigation, the commissioner and their representatives shall have access to the records of the PACE solicitor or PACE solicitor agent related to assessment contracts associated with the violation or matter.

(2) Require the attendance of witnesses and examine under oath all persons whose testimony is required relative to the violation or matter.

(c) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a PACE solicitor or PACE solicitor agent is violating or has violated any provision of this division or any rule or order thereunder, the commissioner or their designee shall exhaust the procedure set forth in paragraph (1) before bringing any action authorized under paragraph (2).

(1) (A) The commissioner shall issue a report to the program administrator, the PACE solicitor, and, if applicable, the PACE solicitor agent, documenting the commissioner's findings and, if applicable, requesting corrective action or a cessation of any violation of this division or any rule or order thereunder.

(B) The program administrator, PACE solicitor, and, if applicable, PACE solicitor agent, or any combination thereof, shall have the opportunity to provide a written answer to the report submitted pursuant to subparagraph (A) within a reasonable period and shall document in its written answer any voluntary corrective action or other actions taken or planned to address the commissioner's request. The commissioner shall shorten the period of time to provide a written answer to no greater than five business days if the

commissioner has reasonable grounds to believe that a person is conducting business as a PACE solicitor or PACE solicitor agent, or both, in an unsafe or injurious manner.

(C) If following the process outlined in subparagraphs (A) and (B), the commissioner believes further action is necessary or appropriate, the commissioner may do any of the following, in any combination:

(i) Demand a corrective action by the program administrator, PACE solicitor, PACE solicitor agent, or any combination thereof.

(ii) Demand the program administrator, PACE solicitor, PACE solicitor agent, or any combination thereof, stop violating the division, rule, or order.

(iii) Demand the PACE solicitor or PACE solicitor agent, or both, discontinue engaging in the business of soliciting property owners to enter into assessment contracts related to any or all program administrators, or demand the program administrator deauthorize the PACE solicitor or PACE solicitor agent, or both, for a defined period not exceeding 12 months, or indefinitely.

(2) (A) The commissioner may, upon exhaustion of the procedure in paragraph (1), bring an order against a PACE solicitor, PACE solicitor agent, or both, as provided in this paragraph. However, the commissioner shall, upon exhaustion of the procedure in paragraph (1), bring an order against a PACE solicitor, PACE solicitor agent, or both, as provided in this paragraph, following either of the following:

(i) The issuance of a demand pursuant to clause (iii) of subparagraph (C) of paragraph (1).

(ii) The issuance of a demand pursuant to clause (i) or (ii) of subparagraph (C) of paragraph (1) involving a violation of Section 22161, when the commissioner believes that the public's interest will be served by the public nature of the order.

(B) The commissioner may order a PACE solicitor or PACE solicitor agent, or both, to desist and refrain from engaging in business as a PACE solicitor or PACE solicitor agent, or further violating this division, or the rules thereunder, in accordance with clause (i) and (ii) of this subparagraph. This paragraph does not authorize the commissioner to restrict the ability of a PACE solicitor or PACE solicitor agent to engage in any business that does not involve soliciting a property owner to enter into an assessment contract.

(i) If the order addresses unsafe or injurious behavior by a PACE solicitor or PACE solicitor agent, or both, the order shall be effective immediately. All other orders shall be effective once final.

(ii) If, within 30 days of the receipt of the order, the PACE solicitor or PACE solicitor agent, or both, fails to request a hearing, the order shall become final.

(iii) If, within 30 days of the receipt of the order, the PACE solicitor or PACE solicitor agent, or both, requests a hearing, the hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(C) The commissioner may, after appropriate notice and opportunity for a hearing, by order, censure or suspend for a period not exceeding 12 months, or bar any natural person from directly or indirectly soliciting a property owner to enter into an assessment contract, in accordance with clause (i) to (iv), inclusive, of this subparagraph. This paragraph does not authorize the commissioner to restrict the ability of a natural person to engage in any business that does not involve soliciting a property owner to enter into an assessment contract, or being employed by a PACE solicitor in a capacity that does not involve soliciting a property owner to enter into an assessment contract.

(i) Within 15 days from the date of a notice of intention to issue an order pursuant to this subparagraph, the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code).

(ii) Upon receipt of a request submitted pursuant to clause (i), the matter shall be set for hearing to commence within 30 days after the commissioner receives the request pursuant to clause (i), unless the person subject to the notice consents to a later date.

(iii) If no hearing is requested within 15 days after the mailing or service of the notice of intention as described in clause (i), and the commissioner does not order a hearing, the right to a hearing shall be deemed to be waived.

(iv) Upon receipt of a notice of intention to issue an order pursuant to this subparagraph, the person who is the subject of the proposed order is immediately prohibited from directly or indirectly soliciting a property owner to enter into an assessment contract.

(d) An order brought under paragraph (2) of subdivision (c) shall be public.

(e) A PACE solicitor or PACE solicitor agent subject to this section shall not be subject to Chapter 4 (commencing with Section 22700).

(f) The commissioner shall not be bound to the provisions of this section in connection with enforcement of this division with respect to a program administrator.

SEC. 14. Section 22707.5 of the Financial Code is amended to read:

22707.5. (a) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a licensee or other person is violating or has violated any provision of this division or any rule or order thereunder, the commissioner or their designee, may issue a citation to the licensee or person in writing, describing with particularity the basis of the citation. Each citation may contain an order to correct the violation or violations identified and provide a reasonable time period or periods by which the violation or violations must be corrected. In addition, each citation may assess an administrative fine not to exceed two thousand five hundred dollars (\$2,500) that shall be deposited in the Financial Protection Fund. In assessing a fine, the commissioner shall give due consideration to the appropriateness of the amount of the fine with respect to factors including the gravity of the violation, the good faith of the person or licensees cited, and the history of previous violations. In addition, the commissioner may include a claim for

ancillary relief. The ancillary relief may include, but not be limited to, refunds, restitution or disgorgement, or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action. A citation issued or a fine assessed pursuant to this section, while constituting punishment for a violation of law, shall be in lieu of other administrative discipline by the commissioner for the offense or offenses cited.

(b) Notwithstanding subdivision (a), nothing in this section shall prevent the commissioner from issuing an order to desist and refrain from engaging in a specific business or activity or activities, or an order to suspend all business operations to a person or licensee who is engaged in or who has engaged in continued or repeated violations of this division. In any of these circumstances, the sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If, within 30 days from the receipt of the citation, the licensee or person cited fails to notify the department that they intend to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) After the exhaustion of the review procedures provided for in this section, the commissioner may apply to the appropriate superior court for a judgment in the amount of the administrative fine and an order compelling the cited licensee or person to comply with the order of the commissioner.

(1) The application shall include a certified copy of the final order of the commissioner.

(2) Upon the filing of the application, the superior court shall set a date for a hearing for an order to show cause why judgment should not be entered, which shall be set not less than 60 calendar days from the date the application is filed.

(3) The commissioner shall serve a copy of the application and order along with notice of the hearing to all entities or persons cited in the order against whom a civil judgment is sought not less than 15 calendar days before the date set for the hearing. Service of the application shall be pursuant to the methods specified by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure for service of summons.

(4) The court shall consider the filing of a certified copy of the final order of the commissioner and the proof of service of the application and notice of the hearing on the persons or entities against whom the judgment is sought, a sufficient prima facie showing to warrant the issuance of the civil judgment at the hearing. The respondent then has the burden of showing by affirmative evidence at the hearing why the order of the commissioner is not final, or why the timely notice of application and hearing was not provided to avoid judgment being entered. Any method of service authorized by laws under which the order was issued is considered valid service for the purposes of determining whether the order is final. Absent this showing

by the respondent, the superior court shall issue a final civil judgment compelling compliance with the order.

(5) The judgment issued pursuant to paragraph (4) may be for injunctive relief or payment of ancillary relief or penalties. The judgment may be enforced by the court pursuant to the procedures authorized for any other civil judgment.

(6) This subdivision shall not be construed to limit judicial review of any order of the commissioner in accordance with the law.

SEC. 15. Section 22712 of the Financial Code is amended to read:

22712. (a) Whenever, in the opinion of the commissioner, any person is engaged or has engaged in business as a finance lender, broker, program administrator, or mortgage loan originator, as defined in this division, without a license from the commissioner, or any licensee is violating or has violated any provision of this division, any provision of an order, or any regulation adopted pursuant to this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further continuing that violation. In addition, the commissioner may include a claim for ancillary relief. The ancillary relief may include, but not be limited to, refunds, restitution or disgorgement, or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action. If, within 30 days after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded. For purposes of this section, “licensee” includes a mortgage loan originator.

(b) Notwithstanding subdivision (a), if, after an investigation, the commissioner has reasonable grounds to believe that a person is conducting or has conducted business in an unsafe or injurious manner, the commissioner shall, by written order addressed to that person, direct the discontinuance of the unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 22717.

SEC. 16. Section 28158 of the Financial Code is amended to read:

28158. If, after investigation, the commissioner has reasonable grounds to believe that a licensee is conducting or has conducted business in an unsafe or injurious manner, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 28164.

SEC. 17. Section 28164 of the Financial Code is amended to read:

28164. (a) No order issued pursuant to this chapter may become final except after notice to the affected licensee of the commissioner’s intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request, the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may

become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is failing or has failed to comply with this division or any regulation or order of the commissioner, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

(c) The commissioner may immediately revoke the licensee's license if the licensee fails to comply with any order issued under this division. The commissioner shall not revoke the license if, within 10 days from the effective date of the revocation order, the licensee secures a court order restraining the enforcement of the commissioner's revocation order.

SEC. 18. Section 50321 of the Financial Code is amended to read:

50321. If, after investigation, the commissioner has reasonable grounds to believe that any licensee is violating or has violated its articles of incorporation or any law or rule binding upon it, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 50323.

SEC. 19. Section 50322 of the Financial Code is amended to read:

50322. If, after investigation, the commissioner has reasonable grounds to believe that any licensee is conducting or has conducted business in an unsafe or injurious manner, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 50323.

SEC. 20. Section 50323 of the Financial Code is amended to read:

50323. (a) No order issued pursuant to Section 50321 or 50322 may become final except after notice to the affected licensee of the commissioner's intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section

11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting or has conducted business in an unsafe and injurious manner or is violating or has violated its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.