

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1446 (Dababneh) – As Amended April 20, 2015

**SUBJECT:** California Finance Lenders Law: violations

**SUMMARY:** Clarifies the authority of the commissioner of the Department of Business Oversight (DBO) to issue desist and refrain orders against licensees under the California Finance Lenders Law (CFLL). Specifically, **this bill:**

- 1) Specifies that the commissioner may order a person engaged as a broker, finance lender, or mortgage loan originator to desist and refrain from violations of a provision of an order or any regulation adopted under the CFLL.

**EXISTING LAW:**

- 1) “Finance lenders” making loans in California are required to obtain a license from DBO and comply with the licensing and regulatory requirements of the CFLL (Financial Code, Sections 22000-22780) and the regulations thereunder. A “finance lender” is broadly defined in Cal. Fin. Code § 22009 as “any person who is engaged in the business of making consumer loans or making commercial loans.
- 2) Authorizes a de minimis exemption under the CFLL for persons who make no more than one commercial loan in a 12-month period (Financial Code Section 22050).
- 3) Prohibits a person subject to the CFLL from doing either of the following:
  - a) Making a materially false or misleading statement or representation to a borrower about the terms or conditions of that borrower’s loan, when making or brokering the loan (Financial Code Section 22161); or,
  - b) Advertising, printing, displaying, publishing, distributing, broadcasting, or causing or permitting to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement or representation that is false, misleading, or deceptive, or that omits material information, as specified (Section 22161).
- 4) Provides that any person who willfully violates any provisions of the CFLL, or who willfully violates any rule or order adopted pursuant to the CFLL, is liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which must be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction (Section 22173).
- 5) Provides that whenever, in the opinion of the commissioner, any person is engaged in the business as a broker or finance lender, or a mortgage loan originator, without a license from the commissioner, or any licensee is violating any provision of the CFLL, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating the CFLL. If a written request for a hearing is filed by the recipient of an

order within 30 days after the order is served, and no hearing is held within 30 days thereafter, the order is rescinded (Section 22712).

**FISCAL EFFECT:** Unknown

**COMMENTS:**

AB 1446 is a technical bill designed to clarify DBO's authority that rules and regulations promulgated under the CFLR are enforceable against licensees engaged in real estate transactions.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

**Analysis Prepared by:** Mark Farouk / B. & F. / (916) 319-3081

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