

Date of Hearing: April 7, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Roger Dickinson, Chair

AB 2289 (Daly) – As Introduced: February 21, 2014

SUBJECT: Electronic records and signatures.

SUMMARY: Makes various changes to laws administered by the Department of Business Oversight (DBO). Specifically, this bill:

- 1) Authorizes DBO to accept electronic filings from licensees under the Corporate Securities Law, Franchise Investment Law (FIL), Check Sellers, Bill Payers and Prorators Law, Escrow Agents Law, California Finance Lenders Law and the Deferred Deposit Transaction Law.
- 2) Provides, that the commissioner of DBO may by rule, or order prescribe the circumstances under which to accept electronic records and signatures.
- 3) Defines "electronic record" as an initial registration application, registration renewal statement, preeffective amendment, posteffective amendment, or material modification and any other record created, generated, sent, communicated, received, or stored by electronic means, and includes a record transmitted by means of facsimile machine or other telephone transceiving equipment. "Electronic record" also includes, but is not limited to, all of the following:
 - a) An application, amendment, supplement, and exhibit, filed for any qualification, registration, order, permit, certificate, license, consent, or other authority;
 - b) A financial statement, reports, advertising, and correspondence between a party and the commissioner directly relating to the record;
 - c) An order, permit, certificate, license, consent, or other authority;
 - d) A notice of public hearing, accusation, and statement of issues, in connection with any application, qualification, registration, order, permit, certificate, license, consent, or other authority;
 - e) A proposed decision of a hearing officer and a decision of the commissioner;
 - f) The transcripts of a hearing and correspondence between a party and the commissioner directly relating to the record; or,
 - g) A release, newsletter, interpretive opinion, determination, specific ruling, and the correspondence relating to the record.
- 4) Defines "electronic signature" as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

- 5) Extends the Franchise application review period from 15 business days to 30 business days.
- 6) Provides that the 30-business day review does not begin until the franchisor files a complete application.
- 7) Defines "complete application" under the FIL as an application that contains appropriate filing fee, Uniform Franchise Disclosure Document and all additional exhibits, including financial statements in conformity with regulation of the commissioner of DBO.
- 8) Makes Legislative findings and declarations that DBO has implemented methods to file records electronically and is encouraged to continue to expand its use of electronic filings to the extent feasible, as budget resources, and equipment are made available to accomplish that goal.

EXISTING LAW provides for the regulation and licensing by DBO of the following industries:

- Affordable Credit Building Opportunities
- Banks
- Broker-Dealers and Investment Advisers
- Business and Industrial Development Corporations (BIDCO)
- California Finance Lenders
- California Residential Mortgage Lenders
- Capital Access Companies
- Certificate as a Securities Depository (DBO 1805.204)
- Check Sellers, Bill Payers and Proraters
- Credit Unions
- Deferred Deposit Originators (commonly known as "Payday Lenders")
- Escrow Agents/ Escrow Law
- Foreign (Other Nation) Banks
- Foreign (Other State) Banks
- Franchises
- Industrial Banks

- Local Agency Security Program (LASP)
- Money Transmitters
- Mortgage Loan Originators
- Premium Finance Companies
- Securities Depository Law
- Trust Companies and Departments

FISCAL EFFECT: Unknown

COMMENTS:

AB 2289 contains two main reforms to the laws administered by DBO. First, it allows for the electronic filing of documents relating to several industries regulated by DBO. Prior to its creation via the Governor's Reorganization Plan, DBO was two departments, the Department of Corporations (DOC) and Department of Financial Institutions. Since DOC embarked in 2008 on expanding its ability to accept electronic records from both licensees and members of the public in order to reduce administrative costs and save staff time. Even with the changed proposed in AB 2289 the commissioner could still require certain documents to be filed in person if deemed necessary.

The second major reform provision of AB 2289 concerns the FIL. Under FIL, an initial franchise registration, and a franchise renewal application automatically become effective at noon on the 15th business day after filing. Typically, DBO will request the applicant to voluntarily waive the 15 day limit in order to have more time to review the applicant and associated documents. Furthermore, Franchise applicant renewals are due on or before April 20th which leads to a massive influx of applications with DBO in a short window of time (Average of 1,053 applications). AB 2289 would extend the review deadline to 30 days and provides that the deadline clock doesn't start unless the applicant has turned in a completed application which includes submission of the filing fee, Uniform Franchise Disclosure Document, and other required documents such as most recent financial statements.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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