

Date of Hearing: July 7, 2025

ASSEMBLY COMMITTEE ON BANKING AND FINANCE  
Avelino Valencia, Chair  
SB 825 (Limón) – As Amended March 24, 2025

**SENATE VOTE:** 28-10

**SUBJECT:** Consumers: financial protection

**SUMMARY:** The bill clarifies the authority provided to the Department of Financial Protection and Innovation (DFPI) to take enforcement action for unfair, deceptive, and abusive acts and practices by licensees otherwise exempt from the California Consumer Financial Protection Law (CCFPL).

**EXISTING LAW:**

**Federal:**

1. Summary: Pursuant to the Consumer Financial Protection Act (CFPA), the Consumer Financial Protection Bureau (CFPB) is the federal analog to the state DFPI. It was established as an independent agency responsible for consumer protection in the financial sector. (12 U.S.C. § 5481 et seq.) “The Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.” 12 U.S. C. § 5511 (a).
2. Authority and Enforcement: The CFPB “may take any action authorized under part E (12 U.S.C. § 5561 et seq.) to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.” 12 U.S. C. § 5531 (a).
  - a. Unfairness means A)the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and (B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition. 12 U.S. C. § 5531 (c)
  - b. Abusive means (1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or (2) takes unreasonable advantage of—
    - i. a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
    - ii. the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or

- iii. the reasonable reliance by the consumer on a covered person to act in the interests of the consumer. 12 U.S. C. § 5531 (d).
3. State Action: Under the CFPA, state authorities and regulators may bring civil action or other appropriate proceedings to enforce provisions of the CFPA against any entity subject to the title. (12 U.S.C § 5552 (a)(1))
    - a. However, **consultation with the CFPB is required** before a state may initiate any action or other administrative or regulatory proceeding against a covered person or service provider subject to the CFPA. (12 U.S.C. §5552 (b)).
    - b. The CFPB may respond by:
      - i. intervene in the action as a party;
      - ii. upon intervening—
        1. remove the action to the appropriate United States district court, if the action was not originally brought there; and
        2. be heard on all matters arising in the action; and
      - iii. appeal any order or judgment, to the same extent as any other party in the proceeding may. (12 U.S.C. §5552 (b)(2))

**State:**

1. The California Consumer Financial Protection Law (CCFPL) provides the DFPI broad nonexclusive oversight and enforcement authority to regulate financial services and products. (Financial Code §90006)
  - a. Authority and Enforcement:
    - i. The DFPI has the following functions, powers and duties 1) Bring and prosecute administrative and civil actions before state and federal courts. 2) Hold hearings and issue publications, results or inquiries and research, and reports that may aid in effectuating the purposes of the law. (Id.)
    - ii. The DFPI has broad enforcement authority to take action against covered persons of service providers who engage in unfair, deceptive or abusive acts or practices (UDAAP) with respect to consumer financial services or products. (Fin. Code § 90012)
  - b. Prohibited Acts: The following are prohibited for a covered person or service provider:
    - i. Engage in unfair, deceptive or abusive acts or practices (UDAAP) with respect to consumer financial services or products.
    - ii. Offer or provide any financial product or service to a consumer that is not in conformity with the financial law, or otherwise, commit any act or omission in violation of a consumer finance law.
    - iii. Fail or refuse to meet the records maintain, access, and auditing requirements and rules issued by the DFPI. (Fin. Code §90003)

- c. Exemptions: The following categories of persons are exempt from the CCFPL:
  - i. Licensees of state agencies other than DFPI to the extent that such entities are acting under the authority of the other state agency's license.
  - ii. Specified categories of licensees of DFPI, including, but not limited to, banks, credit unions, residential mortgage lenders, finance lenders, and money transmitters.
  - iii. Banks, credit unions, and other financial institutions acting under the authority of a license, certificate, or charter under federal law or the laws of another state. (Fin. Code § 90002)
2. In relevant part, the Business and Professions Codes provides that the State Attorney General, District Attorneys, County Counsel (with limitations), and City Attorneys (with population requirements) may enforce unfair competition law (UCL) violations under Section 17200 et seq.
  - a. Unfair competition means and includes any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.
    - i. Part 3 contains an expansive suite of business activity, for example, advertising, fictitious business names, premium coupons, water treatment devices, and bots.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: No

**COMMENTS:**

**1. Original Drafting**

In 2020, the legislature sought to expand consumer financial protections in California by strengthening the purview of the then existing Department of Business Oversight (DBO) through the passage of AB 1864 (Limón). The California Consumer Financial Protection Law (CCFPL) expanded the enforcement, and regulation authority, as well as subject matter authority of the currently named DFPI, much in the same vein as the Federal CFPB.

Exempted licensees of the CCFPL argue that at the inception of the CCFPL, which happened in parallel with the standing up of the DFPI, exempting specific categories of financial licensees was agreeable because these groups had existing licensing structures. This was an appealing pathway given the large amount of scaffolding that was yet to be put in place for a large number of previously unlicensed newly covered persons. Some of the exempted businesses claim that an agreement with the author was reached during the original drafting based on this rationale, which resulted in the current exemptions.

However, the author refutes that any agreement was struck. AB 1864 was a budget trailer bill. The proposed language provided by the Department of Finance to the Legislature for its consideration already included the exemption of licensees. Regardless of whether any agreement

existed or not, the last five years since the original drafting have changed into a completely different financial regulatory landscape– the most relevant issues are discussed below.

## 2. Relevant Current State of Federal Priorities

As a priority act for the second Trump Administration, the CFPB quickly became the subject of the public spotlight in February of 2025 beginning when workers of the agency received the infamous stop work order<sup>1</sup>. As of the date of this publishing, the Bureau is in a legal campaign attempting to layoff over 1,200 CFPB employees, which represents over 90% of the agency. This would leave approximately 200 employees to handle all federal matters under the purview of the CFPA for the country. President Trump has made it clear that he intends to dismantle the CFPB and deprioritize regulation of financial institutions.

In a memo from the chief legal officer of the CFPB, Mark Paoletta was explicit in the administration’s intentions stating “that **the Bureau would lean on states to carry out more enforcement and supervision activities**, arguing that doing so would allow the agency [ ] “to focus on tangible harms to consumers.”<sup>2 3</sup>

In addition to deeply cutting down agency resources, efforts have been made to undercut previously obtained consumer protections. For example, the CFPB issued a consent order against Wise, an electronic money services provider that misled customers about its ATM fees, and failed to refund remittance fees in the legal timeframe when money did not arrive on time costing consumers thousands of dollars.<sup>4</sup> “By deceiving customers, Wise gave itself an unfair advantage over other competitors in the remittances market,” said then CFPB Director Rohit Chopra. “New technology can help make money transfers cheaper and more convenient, but companies must be truthful and live up to longstanding law.”

On January 30, 2025, the CFPB ordered the company to pay approximately \$450,000 to harmed consumers to resolve claims to at least 16,000 consumers, and a \$2.025 million fine to the CFPB’s victims’ relief fund. On May 15, 2025, after appointing its new commissioner, the CFPB issued an amended consent order that supersedes the previous order reducing Wise’s civil penalty fine from \$2.025 million to \$44,955, a 98% reduction, citing, among other sections, Executive Order 14219 (Feb. 19, 2025). In May 2025, the Consumer Federation of America and The Student Borrower Protection Center published a memorandum detailing the dismissal of 21 pending public enforcement actions by the Trump administration CFPB as well as the reduction of previous consent orders similar to the Wise order.<sup>5</sup>

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<sup>1</sup> <https://www.npr.org/2025/02/08/nx-s1-5290914/russell-vought-cfpb-doge-access-musk>

<sup>2</sup> <https://www.npr.org/2025/04/17/nx-s1-5368206/cfpb-layoffs-rif#:~:text=Trump%20administration%20has%20guttled%20an,mass%20layoffs%20for%20April%2028>

<sup>3</sup> See also: “NY must step up to protect consumers as feds step back (Guest Opinion by Samuel Levine & Seth Frotman”); [www-syracuse-com.cdn.ampproject.org/c/s/www.syracuse.com/opinion/2025/05/ny-must-step-up-to-protect-consumers-as-feds-step-back-guest-opinion-by-samuel-levine-seth-frotman.html?outputType=amp](http://www-syracuse-com.cdn.ampproject.org/c/s/www.syracuse.com/opinion/2025/05/ny-must-step-up-to-protect-consumers-as-feds-step-back-guest-opinion-by-samuel-levine-seth-frotman.html?outputType=amp). May 29, 2025.

<sup>4</sup> <https://wayback.archive-it.org/23481/20250205113447/https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-wise-to-pay-25-million-for-illegal-remittance-practices/>

<sup>5</sup> <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://consumerfed.org/wp-content/uploads/2025/05/CFPB-Pending-Enforcement-Actions-v2-Fellows-1.pdf>

This is a wide deviation from the previous administration's policy agenda and in a short amount of time. The uncertainty is harmful for both consumers and businesses. As a result, states have begun to bolster their existing UDAP (unfair and deceptive acts and practices) statutes.

- On March 13, 2025, New York enacted the Fostering Affordability and Integrity through Reasonable (FAIR) Business Practices Act in direct response to federal regulation.
- In March, the state of Massachusetts announced the adoption of “junk” fee” regulations to help consumers avoid unnecessary costs. It also subpoenaed Robinhood, an online brokerage platform, over launching a new predictions market hubs—a way to allow users to gamble on March Madness college basketball games on its platform.

Five years following the inception of the original bill, it is clear that we are in a different, unforeseen post-COVID financial landscape, both in the market and regulatory space.

### **3. Different Enforcement Framework**

Currently, the DFPI has different enforcement authority across different licensing frameworks that govern the various exempted persons. This results in different triggering violations and enforcement procedures and outcomes for different licensees who commit the same harm to consumers. (See tables below). As a result, bad actors in the financial sector who commit UDAAP (unfair, deceptive, and abusive acts and practices) violations may enjoy a lower penalty or less rigorous enforcement procedure simply based on the type of business it is, not the act it committed, which is not in the best interest of public policy. In addition to unfair policy, this also requires a more vast knowledge of enforcement procedure among DFPI staff.

### **4. No Existing Current Independent UDAAP Authority**

Interestingly, both proponents and opponents argue that the federal CFPB UDAAP enforcement authority extended to states requires mere *notice* to be provided to the CFPB, and thus, UDAAP authority for the state already exists. But the statutory language is clear, *consultation with the CFPB* is required before a state may initiate any action or other administrative or regulatory proceeding against a covered person or service provider subject to the CFPB. (12 U.S.C. §5552 (b)). The rationale behind this requirement is to streamline and coordinate law enforcement efforts between state and federal agencies if multiple agencies do intend to pursue action against a service provider.

However, the CFPB has options for its response, including removing the action to another jurisdiction or to appeal any order or judgment to the same extent as any other party in the proceeding. The course of action that the CFPB may take is discretionary, and consideration for the costs and interest of Californians is not required. In the event that CFPB were to respond with a removal or an appeal to an action as a party, the outcome could be detrimental to public policy, and the lengthy court process would be extremely costly to the state. This type of uncertainty is not prudent for public safety, industry compliance, or state budgeting. Thus, arguably, the requirement to consult with an outside federal agency, and the potential strings attached, do not amount to an “existing authority”, independent or otherwise. Additionally, following the June 7th deployment of the National Guard by the Trump administration in California without the

support of Governor Newsom, a volley of threats to funding and resources from both administrations ensued. Given the Trump administration's actions against universities, law firms, individuals, and others who have been perceived to have "wronged" the president, the concern that using federal UDAAP authority could be a cost risk to California is reasonable and warranted.

The closest independent authority for UDAAP violations is under the Business and Professions Code Chapter 4, the Unfair Trade Practices Act, commonly referred to as Unfair Competition Law or UCL. This section only provides authority to pursue claims for UDAAP violations to the Attorney General, district attorneys, county counsel authorized by an agreement with the district for an action involving a violation of county ordinance, or city attorney of a city with a population of at least 750,000 people. Unlike the federal CFPA Dodd-Frank standards, "unfair" and "deceptive" under the UCL are determined through case law, while "abusive" generally shares the standard used federally.

Opposition has raised issues with the fact that the enforcement agencies with existing authority must file a civil suit in order to pursue UDAAP remedies, whereas the DFPI has both civil and administrative law enforcement authority, making UDAAP remedies available through an administrative procedure. "We continue to believe that the powers granted by SB 825 create significant leverage against a state licensed entity when potential violations are brought through an administrative proceeding by the commissioner."

However, the state's current access to UDAAP enforcement under the CFPA, states "authorities and regulators may bring civil action or other appropriate proceedings to enforce provisions of the CFPA against any entity subject to the title." (12 U.S.C § 5552 (a)(1)). And "before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a)..." (12 U.S.C § 5552 (b)(1)(A)). This is a clear indication that the state already has the ability to pursue an administrative proceeding to address UDAAP violations through the federal CFPA route. An important point of clarity, administrative proceedings, like arbitration, have rules and procedures and are evaluated by a neutral third party. This avenue tends to be more cost effective while maintaining due process. However, unlike binding arbitration, which is often used in consumer finance contracts imposed by exempted licensees, administrative rulings have a pathway for appeal.

## **5. Oppositions' Concerns**

### *Stacking Argument 1: Federal Dodd-Frank v. State UCL requirements*

Opposition argues that this would create an additional layer of regulations to keep track of, making work in California overly onerous.

1. The state UDAAP authority works alongside the federal Dodd-Frank requirement. Though the definitions of "unfair" and "deceptive" are elemental in the CFPA, case law still defines the boundaries of interpretation for the elements.
2. The Dodd-Frank definitions of UDAP and the California definitions are not the same by design. In California, the CCFPL allows the DFPI to determine additional actions that would constitute a UDAAP violation, as well, the UCL and prevailing case law create the standard for unfair and deceptive practices. As a state that values innovation and

community responsiveness, the evolving standards of “unfair” and “deceptive” are necessary to keep up with the cultivated industry growth.

3. The Attorney General and other law enforcement already have the ability to enforce the UCL on the relevant entities, thus all financial entities are already subject to state enforcement of UDAAP violations—this bill only extends that enforcement power to the DFPI which already has authority over these licensees.
4. Opposition raises concerns that they would be subject to unfair stacking of claims under UCL, (Section 17205 Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.) however, this is already the status quo, see #3. Furthermore, it is a matter of civil procedure to assert claims for multiple causes of action based on best information and belief in any lawsuit, lest the plaintiff seek permission to amend its complaint. This is true of all civil action, whether in state or federal court, agency or private citizen.
5. PayPal, as an exempt money transmitter licensee, has raised concerns about disproportionality of authority, specifically, that California only represents roughly 11% of the U.S. population but would retain 100% of the federal authority granted for the nation to regulate financial entities doing business in the state.
  - a. First, the scope of authority under the federal CFPA would be extended to the state, or any other state, under the existing provisions of the CFPA with consultation of the CFPB, in whole, not proportion to population.
  - b. Second, this bill does not seek to extend the authority of the federal CFPA to California. This bill explicitly extends the existing state UDAAP authority to currently exempted, but regulated licensees.
  - c. For completeness of the disproportionality argument evaluation, limited data supplied by PayPal shows that California represents 17% of the company’s 2024 U.S. money transmitter business. However, at the time of publishing, California is ranked the fourth largest economy globally, consistently ranking in the top five over the last five years.

#### Stacking Argument 2: Licensing framework v. UDAAP

PayPal has also raised concerns over being subjected to CCFPL remedies, specifically the ceiling penalties for “knowing” violations. In pertinent part, the section reads:

“...for any knowing violation, by a person of this division, rule or final order, or condition imposed by the department, a penalty may not exceed the lesser of 1 percent of the person’s total assets, one million dollars (\$1,000,000) for each day during which the violation continues, or twenty-five thousand dollars (\$25,000) for each act or omission in violation.”

To reiterate, this is the current law and standard by which all covered persons under the CCFPL are already subjected. To exempt other financial businesses from being held to the same standard

of public safety and accountability simply because of its entity type is not sound public policy. However, opposition remains steadfast in its belief that it should only be held to the more burdensome enforcement standards required under the licensing laws. Regardless, the enforcement actions available under the CCFPL are tiered and require the commissioner to take into account mitigating factors and appropriateness when seeking remedies; it is designed with proportionality.

Opposition argues that enforcement under UDAAP would create a stacking of penalties for the same violations, however, upon review of all the applicable licensing laws, no overlap of prohibited acts and penalties with UDAAP exist. Consistently, all of the licensing prohibited acts thresholds are a higher than strict liability, and any statutes with fees have a progressive written disciplinary procedural structure before imposing fees, which are then capped, usually around \$2,500, with an outlier of a \$25,000 cap under Division 1. Corporate Securities Law of 1968, Part 6, Section 25535. Where overlap does exist is in ancillary relief such as disgorgement, restitution to victims, actual damages, or equitable relief, such as an injunction or license suspension. None of these remedies can be stacked. Furthermore, many of the licensing statutes contain a section that specifically allows additional enforcement authority where applicable, which is to be expected given that the prohibited acts require criminal level intent or reckless negligence, thus meeting the lower thresholds of applicable administrative procedures or civil actions.

Example: Mortgage Lenders below, “Nothing in this division limits the power of the state to punish any person for any act that constitutes a crime under any statute. [Fin Code. 2152 (c).] ***The enforcement provisions of this division are in addition to any other enforcement powers that the commissioner may have under law.***” Fin Code 2153

The two subsequent tables are a side-by-side comparison of 1) the threshold triggers for enforcement action and 2) the permitted relief between the UDAAP section of the CCFPL and the Residential Mortgage Lending Act, which is only one of the exempted licensees for illustrative purposes.

Key takeaways:

1. The Residential Mortgage Licensing Act ( “licensing”) has a high threshold requirement to trigger a violation—the act is “knowingly”, “recklessly” or “with intent to...” in nearly all of the sections. This is a high burden to meet, on par with criminal acts.
2. UDAAP is strict liability meaning that no intent is required.
3. The prohibited acts in the licensing law are geared towards the most egregious business practices, again, a high burden.
4. The UDAAP prohibited acts are centered towards protection for the public at large.
5. Remedies under the licensing act cap fees, one remedy requires a criminal conviction. No remedies for consumer victims
6. UDAAP gives the DFPI much more latitude to tailor the relief to the offensive act and focuses on making consumers whole.



*Prohibit Acts Comparison Chart*

<u>UDAAP</u>	<u>Residential Mortgage Lending Act (Fin Code Section 50500-50513)</u>
<p>The department, by regulation, may define unfair, deceptive, and abusive acts and practices in connection with the offering or provision of commercial financing, as defined in subdivision (d) of Section 22800, or other offering or provision of financial products and services to small business recipients, nonprofits, and family farms. Fin Code Section 90009(e)</p>	<p>It is a violation of this division for any person to make any untrue statement of a material fact in any document filed with the commissioner under this division or rules adopted thereunder, or to omit any material fact which is required to be stated in any document.</p>
<p>An act or practice is <b>unfair</b> or <b>deceptive</b> if the act is consistent with the provisions of, and the case law construing, California's Unfair Competition Law (UCL)</p> <p>“Unfairness” under the UCL has been construed to permit courts to exercise significant discretion in addressing allegedly improper business practices.</p> <p>As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. Business and Professions Code Section 17200</p>	<p>(a) It is a violation for any person subject to this law or any director, partner, shareholder controlling an ownership interest of 10 percent or more, trustee, officer, agent, or employee of any such person to do any of the following:</p> <p>(1) <b>Knowingly or recklessly</b> disburse or cause the disbursement of trust funds, except as permitted by Section 50202, or <b>knowingly or recklessly</b> to direct, participate in, or aid or abet in a material way, any activity that <b>constitutes theft or fraud</b> in connection with any trust fund transaction.</p> <p>(2) <b>Knowingly or recklessly</b> make or cause to be made any misstatement or omission of a material fact, pertaining to a loan or loan servicing.</p> <p>(b) Any director, officer, partner, shareholder controlling an ownership interest of 10 percent or more, trustee, or employee of a residential mortgage loan servicer who abstracts or <b>misappropriates</b> money, funds, trust obligations, or property deposited with a licensee, commits a violation of this section.</p>
<p>CCFPL defines “<b>abusive</b>” in accord with the Dodd-Frank Act, meaning an act or practice that “materially interferes” with a consumer's ability to understand a term or condition of a product or service, or that “takes unreasonable advantage” of: 1) a lack of understanding by the consumer of material risks, costs, or conditions; 2) the inability of the consumer to protect his or her interests in selecting or using a product or service; or *21 3) reasonable reliance on a covered person to act in the consumer's interests.</p>	<p>Any director, officer, partner, trustee, or employee of a licensee, its holding company, or its affiliates who <b>knowingly</b> receives or appropriates any of the licensee’s property, other than in payment of a just demand or <b>with intent to defraud</b>, or who omits to make or causes an omission to be made in the full and true entry thereof in its books and accounts or concurs in omitting to make any material entry thereof, violates this division.</p>

*Enforcement Comparison Chart*

<p><b><u>UDAAP Fin Code 90012-90013</u></b></p>	<p><b><u>Residential Mortgage Lending Act (Fin Code Section 50500-50513)</u></b></p>
<p>(a) The department may take any action authorized by this law against a covered person or service provider who engages, has engaged, or proposes to engage in unfair, deceptive, or abusive practices with respect to consumer financial products or services.</p> <p>(b) Relief under this section may include, but is not limited to, any of the following:</p> <ol style="list-style-type: none"> <li>(1) Rescission or reformation of contracts.</li> <li>(2) Refund of moneys or return of real property.</li> <li>(3) Restitution.</li> <li>(4) Disgorgement or compensation for unjust enrichment, with any disgorged amounts returned to the affected consumers, to the extent practicable.</li> <li>(5) Payment of damages or other monetary relief.</li> <li>(6) Public notification regarding the violation, including the costs of notification.</li> <li>(7) Limits on the activities or functions of the person.</li> <li>(8) Monetary penalties</li> </ol>	<p>Any person who <b>willfully</b> violates any provision of this division, or any rule or order under this division, shall, <b>upon conviction</b>, be subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or to both that fine and imprisonment. No person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 50320</p>
<p>In any civil or administrative action brought pursuant to this division, the following penalties shall apply:</p> <ol style="list-style-type: none"> <li>(1) Any person that violates, through any act or omission, any provision of this division shall forfeit and pay a penalty pursuant to this subdivision.</li> </ol> <p>(A) The penalty amounts are as follows:</p> <ol style="list-style-type: none"> <li>(i) For any violation of this division, rule or final order, or condition imposed in writing by the department, a penalty may not exceed the greater of either five thousand dollars (\$5,000) for each day during which the violation or failure to pay continues, or two thousand five hundred dollars (\$2,500) for each act or omission in violation.</li> <li>(ii) Notwithstanding clause (i), for any reckless</li> </ol>	<ol style="list-style-type: none"> <li>(a) Any person who violates a provision of this division, or any rule or order under this division, shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation. This penalty shall 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.</li> <li>(b) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.</li> </ol>

<p>violation by a person of this division, rule or final order, or condition imposed by the department, a penalty may not exceed the greater of twenty-five thousand dollars (\$25,000) for each day during which the violation continues, or ten thousand dollars (\$10,000) for each act or omission in violation.</p> <p>(iii) Notwithstanding clause (i) or (ii), for any knowing violation, by a person of this division, rule or final order, or condition imposed by the department, a penalty may not exceed the lesser of 1 percent of the person's total assets, one million dollars (\$1,000,000) for each day during which the violation continues, or twenty-five thousand dollars (\$25,000) for each act or omission in violation.</p>	
<p>In determining the amount of any penalty assessed under this division, the department shall take into account mitigating factors and the appropriateness of the penalty with respect to all of the following:</p> <p>(i) The amount of financial resources of the person charged.</p> <p>(ii) The good faith of the person charged.</p> <p>(iii) The gravity of the violation.</p> <p>(iv) The severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided.</p> <p>(v) The history of previous violations.</p> <p>(vi) Other matters as justice may require.</p>	<p>(a) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a licensee or person is violating or has violated any provision of this division or any rule or order thereunder, the commissioner or his or her designee may issue a citation to that 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 State Corporations 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. A citation issued and 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, and the citation and fine payment thereof by a licensee shall not be reported as disciplinary action taken by the commissioner.</p>
<p>The department may compromise, modify, or remit any penalty that may be assessed or has already been assessed.</p>	<p>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.</p>
<p>In any action brought by the department, the department may recover its costs in connection with prosecuting the action if the department is the prevailing party in the action.</p>	<p>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.</p>

Opposition also raises concerns over uncertainty, despite also arguing that codification of UDAAP authority for the state is redundant. The CCFPL is explicit in its broad authority given to the DFPI to define unfair, deceptive, and abusive acts and practices. See Fin Code Section 90009(e). However, unfair and deceptive acts are interpreted by the Department consistently with the longstanding Unfair Competition Law (UCL). The Dodd-Frank interpretation of “abusive” is also very clear.

As a state that has a long standing history and foreseeable future in financial innovation and technology, the need for parallel elasticity in our regulatory interpretation is a vital accommodation to industry. Simply put, the aim for innovation should be to meet the demands of consumers in a safe manner, not to evade the law.

**6. What this Bill Does NOT Do:**

- a) This bill does not subject the exempted categories of persons to other provisions of the CCFPL, including new licensing or registration requirements.
- b) Nor will it prohibit the ability for interagency or interstate agency cooperation.
- c) Again, according to the opposition, it does not change the DFPI’s existing authority to bring a UDAAP action under the current federal law.
- d) It does not change the fact that the licensed exemptees are already subject to UDAAP enforcement in California through the Attorney General and select other law enforcement.
- e) Finally, this bill will not impact businesses that do not engage in unfair, deceptive, and abusive acts or practices.

**7. Statement from the Author:**

“With recent changes to the Consumer Financial Protection Bureau, the sole federal agency tasked with enforcement of consumer financial protection laws, consumers will be left with less protections and fewer resources to help them navigate the financial marketplace. SB 825 authorizes DFPI to enforce state consumer financial protection laws over entities they currently regulate, including state banks, state credit unions, independent mortgage companies, nonbank lenders, and payment service providers.”

**8. Arguments in Support**

“...The bill is needed to bring basic parity to California’s regulation of financial products and services. It is simply unfair for the DFPI to have broad enforcement authority against non-licensed providers of financial products and services but not to have that authority against licensed entities that, in many cases, directly compete with non-licensed entities. In addition, consumers are left vulnerable if the DFPI does not have its broadest enforcement authority against the large swaths of the marketplace that are licensed by the DFPI.

Indeed, clear and effective DFPI enforcement authority is more important than ever. In the aftermath of the Great Recession of 2008, when some 10 million Americans lost their homes, Congress created the federal consumer protection watchdog that had been so conspicuously

absent in the years leading up to the mortgage crisis: the Consumer Financial Protection Bureau (CFPB). Through oversight, regulation, and especially enforcement, since its founding in 2011 the CFPB helped stabilize the housing market, create a level playing field within financial markets — and return more than \$21 billion dollars to consumers.

Unfortunately, the incoming federal administration has moved to shut down, or otherwise dismantle, the CFPB.<sup>2</sup> California therefore needs to act, right now, to protect consumers and to safeguard honest businesses...”

## **9. Arguments in Opposition**

“...As enacted in 2020, the CCFPL exempts from its scope DFPI licensees and those licensed or registered by other state or federal agencies, because the new program was intended to target new, emerging financial product and service providers entering the California marketplace that were not regulated under the DFPI’s existing licensing laws. The new Consumer Financial Protection Division was established within the Department to register and supervise those previously unregulated “covered persons.”

SB 825 upends the compromise reached in 2020 that resulted in passage of the California Consumer Financial Protection Law. We believe now, as we did then, that expanding the DFPI’s authority to enforce UDAAP claims is unnecessary and redundant of both the existing authority of the Attorney General and the Department’s own enforcement powers with respect to its licensees. The Department has existing authority alone, or in concert with the Attorney General, to discipline licensees for unfair practices. Further, this new authority will necessarily stretch limited Department resources and compound its current fiscal challenges - again with no clear showing as to why existing state enforcement powers are inadequate.

In summary, the CCFPL was not intended to add redundant investigations of existing licensees outside of their respective licensing laws, where the Department already has clear jurisdiction to regulate any person acting under the authority of their license, certificate, or charter, up to and including suspension or revocation of license. And, under existing law, the DFPI can partner with the Attorney General to prosecute egregious UDAAP cases against bad actors under California’s unfair business practices statutes.”

## **REGISTERED SUPPORT / OPPOSITION:**

**Support:** (Verified 7/2/25)

California Low-income Consumer Coalition  
CAMEO - California Association for Micro Enterprise Opportunity  
Center for Responsible Lending  
Consumer Federation of California  
Consumer Reports  
National Consumer Law Center  
National Consumer Law Center, Inc.  
Nextgen California  
Office of Kat Taylor  
Small Business Majority

The Responsible Business Lending Coalition

**Opposition:** (Verified 7/2/25)

American Financial Services Association  
California Bankers Association  
California Community Banking Network  
California Credit Union League  
California Financial Services Association  
California Mortgage Association  
California Mortgage Bankers Association  
Mortgage Bankers Association  
Secured Finance Network

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