

Date of Hearing: June 18, 2018

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Monique Limón, Chair

SB 1361 (Bradford) – As Amended June 11, 2018

SENATE VOTE: 38-0

SUBJECT: Department of Business Oversight: administration

SUMMARY: Requires the Department of Business Oversight (DBO) to disclose specified information about the civil penalties it levies against banks, savings associations, credit unions, trust companies, money transmitters, insurance premium finance agencies, and business or industrial development corporations. Specifically, this bill:

- 1) Deletes the prohibition which prohibits DBO from disclosing or permitting the disclosure of any record, record of any action, or information contained in a record of any action taken by the commissioner under the provisions of the code section authorizing civil penalties, to persons other than federal or state government employees, unless the disclosure is authorized or requested by the affected licensee or subsidiary or is taken in connection with a knowing violation.
- 2) Adds the imposition of civil penalties against financial services licensees to the list of enforcement actions DBO is required to make public on its Internet Web site.

EXISTING LAW:

Existing state law:

- 1) Defines a licensee as a bank, savings association, credit union, trust company, money transmitter, insurance premium finance agency, or business or industrial development corporation authorized by the Commissioner of Business Oversight (commissioner) to conduct business in this state. These licensees will be referred to as financial services licensees for the remainder of this analysis.
- 2) Provides that, notwithstanding any other provision of law that applies to a licensee or a subsidiary of a licensee, the commissioner may, by order, levy a civil penalty against any licensee or any subsidiary of any licensee that has violated any provision of applicable law, any order issued by the commissioner, any written agreement between the commissioner and the licensee or subsidiary of the licensee, or any condition of any approval issued by the commissioner.
- 3) Caps allowable civil penalties at \$1,000 per day and \$50,000 per licensee or subsidiary, except in cases involving reckless violations (capped at \$5,000 per day and \$75,000 total per licensee or subsidiary) and cases involving knowing violations (capped at \$10,000 per day and a total of 1% of a licensee's or subsidiary's total assets).
- 4) Prohibits DBO from disclosing or permitting the disclosure of any record, record of any action, or information contained in a record of any action taken by the commissioner under

the provisions of the code section authorizing civil penalties, to persons other than federal or state government employees, unless the disclosure is authorized or requested by the affected licensee or subsidiary or is taken in connection with a knowing violation.

Requires the commissioner to make public, on DBO's Internet Web site, most types of final enforcement actions taken against DBO's financial services licensees, but provides that, if the commissioner determines that the publication of a final enforcement action would seriously threaten the safety or soundness of a regulated institution subject to that enforcement action, the commissioner may delay publication of the order or decision for a reasonable time.

Existing federal law:

- 1) Requires each federal banking agency to publish and make available to the public, on a monthly basis, all of the following ((12 USC Section 1818(u)):
 - a) Any written agreement or other written statement for which a violation may be enforced, unless that banking agency determines that publication would be contrary to the public interest.
 - b) Any final order issued by that banking agency with respect to any administrative enforcement proceeding brought by the agency.
 - c) Any modification to or termination of any order or agreement made public by the banking agency.
- 2) Provides that if the appropriate banking agency makes a determination in writing that the publication of a final order would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time ((12 USC Section 1818(u)).

FISCAL EFFECT: According to the Senate Appropriations Committee pursuant to Senate Rule 28.8 costs are minor and absorbable.

COMMENTS: In order to achieve greater transparency in government regulatory actions, DBO will have the ability to make public the civil penalties it imposes against its financial services licensees, in the same way federal banking agencies are allowed to make their civil penalties public. Granting DBO this authority appears consistent with the provisions of SB 979 (Vargas, Chapter 356, Statutes of 2012). That bill added the code section requiring the then-Department of Financial Institutions (DFI; predecessor department to DBO) to make public, on its Internet Web site, with limited exceptions, final enforcement actions taken against DFI's financial services licensees.

Recent amendments provided by the author were technical and clarifying in nature.

REGISTERED SUPPORT / OPPOSITION:

Support

Department of Business Oversight

Opposition

None on file

Analysis Prepared by: William Herms / B. & F. / (916) 319-3081