

Senate Bill No. 706

Passed the Senate September 9, 2011

Secretary of the Senate

Passed the Assembly September 8, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 27, 10004, 10166.02, 10166.12, 10175.2, 10236.2, 10450.6, 10470, 10470.1, 10471, 10471.1, 10471.3, 10471.5, 10472, 10472.1, 10473, 10473.1, 10474, 10474.5, 10475, 10476, 10477, 10479, 10481, and 11318 of, to amend, repeal, and add Section 11360 of, and to add Sections 10050.1, 10083.2, 10100.4, 10106, 10186, 10186.1, 10186.2, 10186.9, 11310.1, 11313.2, 11317.2, and 11319.2 to, the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 706, Price. Business and professions.

(1) Existing law provides for the licensure, endorsement, and regulation of real estate brokers, real estate salespersons, and mortgage loan originators by the Real Estate Commissioner of the Department of Real Estate in the Business, Transportation and Housing Agency. The Office of Real Estate Appraisers within the Business, Transportation and Housing Agency is under the supervision and control of the Secretary of Business, Transportation and Housing. Existing law provides for the licensure, certification, and regulation of persons who engage in specified real estate appraisal activity by the Director of the Office of Real Estate Appraisers, who is responsible to the Secretary of Business, Transportation and Housing.

This bill would state that protection of the public shall be the highest priority for the department and the office in exercising their licensing, regulatory, and disciplinary functions.

The bill would authorize the department to enter into a settlement with a real estate licensee or applicant instead of the issuance of an accusation or statement of issues against the licensee or applicant and would require the settlement to identify the factual basis for the action being taken and the statutes or regulations that have been violated. The bill would authorize an administrative law judge to order a licensee in a disciplinary proceeding to pay, upon request of the commissioner, the reasonable costs of investigating and prosecuting the disciplinary case against the licensee.

Following an administrative proceeding, or in connection with a stipulation, when the commissioner grants the right to a real estate license applicant or a licensee to apply for or obtain a restricted license or restricted mortgage loan originator license endorsement, the bill would authorize the commissioner to require the restricted licensee to pay the monetary costs associated with monitoring the licensed activities conducted pursuant to the restricted license or restricted mortgage loan originator license endorsement.

The bill would provide that a license, endorsement, or certificate shall be suspended by the department or the office if the licensee or registrant is incarcerated after the conviction of a felony and would require the department or the office to notify the licensee or registrant of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses.

The bill would require a licensee and registrant to report to the department or the office when there is an indictment or information charging a felony against the licensee or registrant or when he or she has been convicted of a felony or misdemeanor. The bill would make a violation of this reporting requirement a cause for discipline.

The bill would require costs recovered pursuant to these disciplinary proceedings to be deposited in either the Real Estate Fund or the Real Estate Appraisers Regulation Fund, as specified, and would make the funds available upon appropriation by the Legislature.

The bill would require the secretary to review and evaluate the office, and make recommendations to the Legislature by October 1, 2014, regarding whether the office should be, among other things, consolidated within the department or another state entity.

The bill would provide that, on and after January 1, 2015, the department and the office shall be subject to review by the appropriate policy committees of the Legislature.

(2) Existing law authorizes the director to adopt regulations relating to the license renewal process that include, among other things, continuing education requirements. Existing law authorizes renewal applicants to certify that they have read and understand

specified state and federal laws instead of being required to take a course relating to federal and state appraisal laws.

This bill would, commencing January 1, 2013, require these renewal applicants to take that course.

(3) Existing law establishes in the Real Estate Fund the Recovery Account, which is continuously appropriated for purposes of funding the Real Estate Recovery Program. The account is funded by crediting a specified percentage of any real estate license fee collected unless the balance in the Recovery Account is at least \$3,500,000. Existing law provides that when an aggrieved person obtains a final judgment in a court of competent jurisdiction or an arbitration award against a defendant based upon specified misconduct by the defendant, the aggrieved person may file a claim application with the Department of Real Estate for payment from the Recovery Account of the amount unpaid on the judgment which represents an actual and direct loss to the claimant in the transaction. Existing law requires the commissioner to render a final written decision on the application within 90 days, except as specified, after a completed application has been received. Under existing law, if the commissioner fails to render a written decision in response to the claim within a specified timeframe, the claim shall be deemed to have been denied by the commissioner on the final day for rendering the decision.

This bill would rename the Recovery Account as the Consumer Recovery Account and would delete the provision specifying that the claim shall be deemed to have been denied in the circumstances described above.

(4) Existing law provides for the regulation of various profession and vocation licensees by boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law requires certain boards within the department to disclose on the Internet information on their respective licensees.

This bill would require the California Board of Accountancy, the California Architects Board, the State Athletic Commission, the State Board of Barbering and Cosmetology, the State Board of Guide Dogs for the Blind, the State Board of Chiropractic Examiners, the Department of Real Estate, and the Office of Real

Estate Appraisers to disclose on the Internet information on their respective licensees, as specified.

(5) The bill would make other conforming and technical changes.

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 10004 of the Business and Professions Code is amended to read:

10004. “Department” means the Department of Real Estate in the Business, Transportation and Housing Agency.

SEC. 3. Section 10050.1 is added to the Business and Professions Code, to read:

10050.1. Protection of the public shall be the highest priority for the Department of Real Estate in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 4. Section 10083.2 is added to the Business and Professions Code, to read:

10083.2. (a) The commissioner shall provide on the Internet information regarding the status of every license issued by the department in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department. The information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) For purposes of this section, "Internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 5. Section 10100.4 is added to the Business and Professions Code, to read:

10100.4. (a) Notwithstanding Section 11415.60 of the Government Code, the department may enter into a settlement with a licensee or applicant instead of the issuance of an accusation or statement of issues against that licensee or applicant.

(b) The settlement shall identify the factual basis for the action being taken and the statutes or regulations violated.

(c) A person who enters a settlement pursuant to this section is not precluded from filing a petition, in the timeframe permitted

by law, to modify the terms of the settlement or a petition for early termination of probation, if probation is part of the settlement.

(d) Any settlement with a licensee executed pursuant to this section shall be considered discipline by the department.

SEC. 6. Section 10106 is added to the Business and Professions Code, to read:

10106. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before the department, the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the commissioner or the commissioner's designated representative, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the commissioner to increase the cost award. The commissioner may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made and timely payment is not made as directed in the commissioner's decision, the commissioner may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the commissioner may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the commissioner's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the department shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) The department may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the department to reimburse the department within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Real Estate Fund to be available, notwithstanding Section 10451, upon appropriation by the Legislature.

(i) Nothing in this section shall preclude the department from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

SEC. 7. Section 10166.02 of the Business and Professions Code is amended to read:

10166.02. (a) A real estate broker who acts pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131, and who makes, arranges, or services loans secured by real property containing one to four residential units, and any salesperson who acts in a similar capacity under the supervision of that broker, shall notify the department by January 31, 2010, or within 30 days of commencing that activity, whichever is later. The notification shall be made in writing, as directed, on a form that is acceptable to the commissioner.

(b) No individual may engage in business as a mortgage loan originator under this article without first doing both of the following:

(1) Obtaining and maintaining a real estate license pursuant to Article 2 (commencing with Section 10150).

(2) Obtaining and maintaining a real estate license endorsement pursuant to this article identifying that individual as a licensed mortgage loan originator.

(c) License endorsements shall be valid for a period of one year and shall expire on the 31st of December each year.

(d) Applicants for a mortgage loan originator license endorsement shall apply in a form prescribed by the commissioner. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of the commissioner.

(e) In order to fulfill the purposes of this article, the commissioner may establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this article.

(f) A real estate broker or salesperson who fails to notify the department pursuant to subdivision (a), or who fails to obtain a license endorsement required pursuant to paragraph (2) of subdivision (b), shall be assessed a penalty of fifty dollars (\$50) per day for each day written notification has not been received or a license endorsement has not been obtained, up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day, the penalty is one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of days, until the department receives the written notification or the licensee obtains the license endorsement. Penalties for violations of subdivisions (a) and (b) shall be additive.

(g) The commissioner may suspend or revoke the license of a real estate broker or salesperson who fails to pay a penalty imposed pursuant to this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of that penalty.

(h) All penalties paid or collected under this section shall be deposited into the Consumer Recovery Account of the Real Estate Fund and shall, upon appropriation by the Legislature, be available for expenditure for the purposes specified in Chapter 6.5 (commencing with Section 10470).

SEC. 8. Section 10166.12 of the Business and Professions Code is amended to read:

10166.12. (a) As often as the commissioner deems necessary and appropriate, the commissioner shall examine the affairs of each real estate broker who is required to notify the commissioner or obtain a license endorsement pursuant to Section 10166.02 for compliance with this part. These examinations shall also include a review of the affairs of all real estate brokers and real estate salespersons acting under the supervision of each real estate broker who is required to file reports with the department pursuant to

Section 10166.07. The commissioner shall appoint suitable persons to perform these examinations. The commissioner and his or her appointees may examine the books, records, and documents of the licensee, and may examine the licensee's officers, directors, employees, or agents under oath regarding the licensee's operations. The commissioner may cooperate with any agency of the state or federal government, other states, agencies, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. The commissioner may accept an examination conducted by one of these entities in place of an examination by the commissioner under this section, unless the commissioner determines that the examination does not provide information necessary to enable the commissioner to fulfill his or her responsibilities under this division.

(b) The commissioner may impose a penalty against a real estate broker or real estate salesperson whose affairs are examined or reviewed pursuant to subdivision (a) based on the findings of the examination or review. The commissioner may suspend or revoke the license or license endorsement of a real estate broker or real estate salesperson who fails to pay that penalty. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of the penalty.

(c) Penalties collected pursuant to subdivision (b) shall be deposited into the Consumer Recovery Account of the Real Estate Fund and shall, upon appropriation by the Legislature, be available for expenditure for the purposes specified in Chapter 6.5 (commencing with Section 10470).

(d) The statement of the findings of an examination conducted pursuant to this section shall belong to the commissioner and shall not be disclosed to anyone other than the licensee, law enforcement officials, or other state or federal regulatory agencies for further investigation and enforcement. Reports required of licensees by the commissioner under this division and results of examinations performed by the commissioner under this division are the property of the commissioner.

SEC. 9. Section 10175.2 of the Business and Professions Code is amended to read:

10175.2. (a) If the Real Estate Commissioner determines that the public interest and public welfare will be adequately served by permitting a real estate licensee to pay a monetary penalty to

the department in lieu of an actual license suspension, the commissioner may, on the petition of the licensee, stay the execution of all or some part of the suspension on the condition that the licensee pay a monetary penalty and the further condition that the licensee incur no other cause for disciplinary action within a period of time specified by the commissioner.

(b) The commissioner may exercise the discretion granted under subdivision (a) either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the licensee or by stipulation with the licensee after the filing of an accusation, but prior to the rendering of a decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the licensee shall be made part of a formal decision of the commissioner.

(c) If a licensee fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the commissioner, the commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the licensee shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the department under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars (\$250) for each day of suspension stayed nor a total of ten thousand dollars (\$10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received by the department pursuant to this section shall be credited to the Consumer Recovery Account of the Real Estate Fund.

SEC. 10. Section 10186 is added to the Business and Professions Code, to read:

10186. (a) Following an administrative proceeding, or in connection with a stipulation, when the commissioner grants the right to a license applicant or a licensee to apply for or to obtain a restricted license or restricted mortgage loan originator license endorsement, the commissioner may, in addition to any other terms and conditions placed upon the restricted licensee, require the restricted licensee to pay the monetary costs associated with monitoring the licensed activities conducted by and pursuant to

the restricted license or restricted mortgage loan originator license endorsement.

(b) The commissioner may also require, as a condition precedent to the issuance of a restricted license or restricted mortgage loan originator license endorsement, that the licensee pay monetary restitution to any person who sustained damages by reason of the act or acts that led to the discipline imposed by the commissioner.

(c) The commissioner shall not renew a license or a mortgage loan originator license endorsement, and may deny an application for the removal of license restrictions or for the reinstatement of an unrestricted license, if the licensee fails to pay all of the costs he or she is ordered to pay pursuant to this section.

(d) The commissioner shall not reinstate an unrestricted license or unrestricted mortgage loan originator license endorsement, or remove restrictions from a license or license endorsement, if the petitioner has failed to pay any costs he or she was ordered to pay pursuant to this section.

(e) The commissioner may require a holder of a restricted or revoked license, who petitions the commissioner for reinstatement of his or her license pursuant to Section 11522 of the Government Code, to pay the reasonable costs of processing the petition request.

(f) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Real Estate Fund to be available, notwithstanding Section 10451, upon appropriation by the Legislature.

SEC. 11. Section 10186.1 is added to the Business and Professions Code, to read:

10186.1. (a) A license or an endorsement of the department shall be suspended automatically during any time that the licensee is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The department shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license or endorsement has been automatically suspended by virtue of the licensee's incarceration, and if so, the duration of that suspension. The department shall notify the licensee of the suspension and of his or her right to elect to have the issue of penalty heard as provided in subdivision (d).

(b) If after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee was convicted was substantially

related to the qualifications, functions, or duties of a licensee, the commissioner upon receipt of the certified copy of the record of conviction, shall suspend the license or endorsement until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the department.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the commissioner may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the department.

(d) (1) Discipline may be ordered against a licensee in accordance with the laws and regulations of the department when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be held until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this

section shall automatically cease. Nothing in this subdivision shall prohibit the department from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license or endorsement issued by the department shall not apply to proceedings conducted pursuant to this section.

SEC. 12. Section 10186.2 is added to the Business and Professions Code, to read:

10186.2. (a) (1) A licensee shall report any of the following to the department:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(C) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the conviction, or the disciplinary action.

(b) Failure to make a report required by this section shall constitute a cause for discipline.

SEC. 13. Section 10186.9 is added to the Business and Professions Code, to read:

10186.9. Notwithstanding any other provision of law, on and after January 1, 2015, the department shall be subject to review by the appropriate policy committees of the Legislature.

SEC. 14. Section 10236.2 of the Business and Professions Code is amended to read:

10236.2. (a) A real estate broker who satisfies the criteria of subdivision (a) or (b) of Section 10232 and who fails to notify the Department of Real Estate, in writing, of that fact within 30 days thereafter as required by subdivision (e) of Section 10232 shall be assessed a penalty of fifty dollars (\$50) per day for each additional

day written notification has not been received up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day the penalty is one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of days, until the department receives the written notification.

(b) The commissioner may suspend or revoke the license of any real estate broker who fails to pay a penalty imposed under this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of the penalty.

(c) All penalties paid or collected under this section shall be deposited into the Consumer Recovery Account of the Real Estate Fund.

SEC. 15. Section 10450.6 of the Business and Professions Code is amended to read:

10450.6. There shall be separate accounts in the Real Estate Fund for purposes of real estate education and research and for purposes of recovery which shall be known respectively as the Education and Research Account and the Consumer Recovery Account. The commissioner may, by regulation, require that up to 8 percent, or any lesser amount that he or she deems appropriate, of the amount of any license fee collected under this part be credited to the Education and Research Account. Twelve percent of the amount of any license fee collected shall be credited to the Consumer Recovery Account, provided, however, that if as of June 30 of any fiscal year the balance of funds in the Consumer Recovery Account is at least three million five hundred thousand dollars (\$3,500,000), all funds in excess of this amount which have been credited to the Consumer Recovery Account shall instead be credited to the Real Estate Fund. As long as the balance of funds in the Consumer Recovery Account exceeds three million five hundred thousand dollars (\$3,500,000), all license fees collected, except for the percentage of license fees credited to the Education and Research Account, shall be credited to the Real Estate Fund. Funds in the Education and Research Account shall be used by the commissioner in accordance with Section 10451.5. The Consumer Recovery Account is continuously appropriated for carrying out Chapter 6.5 (commencing with Section 10470).

As used in this part or any other provision of law, “Recovery Account” shall be deemed to refer to the Consumer Recovery Account.

SEC. 16. Section 10470 of the Business and Professions Code is amended to read:

10470. If, on June 30 of any year, the balance remaining in the Consumer Recovery Account in the Real Estate Fund is less than two hundred thousand dollars (\$200,000), every licensed broker, when obtaining or renewing any broker license within four years thereafter, shall pay, in addition to the license fee, a fee of seven dollars (\$7), and every licensed salesperson, when obtaining or renewing such license within four years thereafter, shall pay, in addition to the license fee, a fee of four dollars (\$4). The fees from both broker and salesperson licensees shall be paid into the State Treasury and credited to the Consumer Recovery Account.

SEC. 17. Section 10470.1 of the Business and Professions Code is amended to read:

10470.1. (a) In addition to the amount paid into the Consumer Recovery Account as set forth in Section 10450.6, the Real Estate Commissioner may authorize the transfer from the Real Estate Fund to the Consumer Recovery Account of any amounts as are deemed necessary.

(b) If the balance remaining in the Consumer Recovery Account contains more than four hundred thousand dollars (\$400,000), the commissioner may authorize the transfer of all or part of the surplus amount into the Real Estate Fund.

(c) The commissioner may authorize the return to the Consumer Recovery Account of all or any amount previously transferred to the Real Estate Fund under this section.

SEC. 18. Section 10471 of the Business and Professions Code is amended to read:

10471. (a) When an aggrieved person obtains (1) a final judgment in a court of competent jurisdiction, including, but not limited to, a criminal restitution order issued pursuant to subdivision (f) of Section 1202.4 of the Penal Code or Section 3663 of Title 18 of the United States Code, or (2) an arbitration award that includes findings of fact and conclusions of law rendered in accordance with the rules established by the American Arbitration Association or another recognized arbitration body, and in accordance with Sections 1281 to 1294.2, inclusive, of the

Code of Civil Procedure where applicable, and where the arbitration award has been confirmed and reduced to judgment pursuant to Section 1287.4 of the Code of Civil Procedure, against a defendant based upon the defendant's fraud, misrepresentation, or deceit, made with intent to defraud, or conversion of trust funds, arising directly out of any transaction in which the defendant, while licensed under this part, performed acts for which a real estate license was required, the aggrieved person may, upon the judgment becoming final, file an application with the Department of Real Estate for payment from the Consumer Recovery Account, within the limitations specified in Section 10474, of the amount unpaid on the judgment that represents an actual and direct loss to the claimant in the transaction. As used in this chapter, "court of competent jurisdiction" includes the federal courts, but does not include the courts of another state.

(b) The application shall be delivered in person or by certified mail to an office of the department not later than one year after the judgment has become final.

(c) The application shall be made on a form prescribed by the department, verified by the claimant, and shall include the following:

- (1) The name and address of the claimant.
- (2) If the claimant is represented by an attorney, the name, business address, and telephone number of the attorney.
- (3) The identification of the judgment, the amount of the claim and an explanation of its computation.
- (4) A detailed narrative statement of the facts in explanation of the allegations of the complaint upon which the underlying judgment is based.
- (5) (A) Except as provided in subparagraph (B), a statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying judgment is based was prosecuted conscientiously and in good faith. As used in this section, "conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that the claimant employed no other procedural means contrary to the diligent

prosecution of the complaint in order to seek to qualify for the Consumer Recovery Account.

(B) For the purpose of an application based on a criminal restitution order, all of the following statements by the claimant:

(i) The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order.

(ii) The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order.

(iii) The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Consumer Recovery Account.

(6) The name and address of the judgment debtor or, if not known, the names and addresses of persons who may know the judgment debtor's present whereabouts.

(7) The following representations and information from the claimant:

(A) That he or she is not a spouse of the judgment debtor nor a personal representative of the spouse.

(B) That he or she has complied with all of the requirements of this chapter.

(C) That the judgment underlying the claim meets the requirements of subdivision (a).

(D) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(E) That he or she has diligently pursued collection efforts against all judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment.

(F) That the underlying judgment and debt have not been discharged in bankruptcy, or, in the case of a bankruptcy proceeding that is open at or after the time of the filing of the

application, that the judgment and debt have been declared to be nondischargeable.

(G) That the application was mailed or delivered to the department no later than one year after the underlying judgment became final.

(d) If the claimant is basing his or her application upon a judgment against a salesperson, and the claimant has not obtained a judgment against that salesperson's employing broker, if any, or has not diligently pursued the assets of that broker, the application shall be denied for failure to diligently pursue the assets of all other persons liable to the claimant in the transaction unless the claimant can demonstrate, by clear and convincing evidence, either that the salesperson was not employed by a broker at the time of the transaction, or that the salesperson's employing broker would not have been liable to the claimant because the salesperson was acting outside the scope of his or her employment by the broker in the transaction.

(e) The application form shall include detailed instructions with respect to documentary evidence, pleadings, court rulings, the products of discovery in the underlying litigation, and a notice to the applicant of his or her obligation to protect the underlying judgment from discharge in bankruptcy, to be appended to the application.

(f) An application for payment from the Consumer Recovery Account that is based on a criminal restitution order shall comply with all of the requirements of this chapter. For the purpose of an application based on a criminal restitution order, the following terms have the following meanings:

- (1) "Judgment" means the criminal restitution order.
- (2) "Complaint" means the facts of the underlying transaction upon which the criminal restitution order is based.
- (3) "Judgment debtor" means any defendant who is the subject of the criminal restitution order.

The amendments to this section made at the July 1997–98 Regular Session shall become operative July 1, 2000.

SEC. 19. Section 10471.1 of the Business and Professions Code is amended to read:

10471.1. (a) The claimant shall serve a copy of the notice prescribed in subdivision (e) together with a copy of the application

upon the judgment debtor by personal service, by certified mail, or by publication, as set forth in subdivision (b).

(b) If the judgment debtor holds an unexpired and unrevoked license issued by the department, service of the notice and a copy of the application may be made by certified mail addressed to the judgment debtor at the latest business or residence address on file with the department. If the judgment debtor does not hold an unexpired and unrevoked license issued by the department and personal service cannot be effected through the exercise of reasonable diligence, the claimant shall serve the judgment debtor by one publication of the notice in each of two successive weeks in a newspaper of general circulation published in the county in which the judgment debtor was last known to reside.

(c) If the application is served upon the judgment debtor by certified mail, service is complete five days after mailing if the place of address is within the State of California, 10 days after mailing if the place of address is outside the State of California but within the United States, and 20 days after mailing if the place of address is outside the United States. Personal service is complete on the date of service. Service by publication is complete upon completion of the second week of publication.

(d) If a judgment debtor wishes to contest payment of an application by the commissioner, he or she shall mail or deliver a written response to the application addressed to the department at its headquarters office within 30 days after service of the notice and application, and shall mail or deliver a copy of the response to the claimant. If a judgment debtor fails to mail or deliver a timely response, he or she shall have waived his or her right to present objections to payment.

(e) The notice served upon the judgment debtor shall include the following statement:

“NOTICE: Based upon a judgment entered against you in favor of _____, application for payment from the Consumer
(name of claimant)

Recovery Account of the Real Estate Fund is being made to the Department of Real Estate.

“If payment is made from the Consumer Recovery Account, all licenses and license rights that you have under the Real Estate Law will be automatically suspended on the date of payment and cannot be reinstated until the Consumer

Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

“If you wish to contest payment by the Real Estate Commissioner, you must file a written response to the application addressed to the Department of Real Estate at _____ within 30 days after mailing, delivery, or publication of this notice and mail or deliver a copy of that response to the claimant. If you fail to do so, you will have waived your right to present your objections to payment.”

(f) If a judgment debtor fails to mail or deliver a written response to the application with the department within 30 days after personal service, mailing, or final publication of the notice, the judgment debtor shall not thereafter be entitled to notice of any action taken or proposed to be taken by the commissioner with respect to the application.

SEC. 20. Section 10471.3 of the Business and Professions Code is amended to read:

10471.3. (a) The commissioner shall render a final written decision on the application within 90 days after a completed application has been received unless the claimant agrees in writing to extend the time within which the commissioner may render a decision.

(b) The commissioner may deny or grant the application or may enter into a compromise with the claimant to pay less in settlement than the full amount of the claim. If the claimant refuses to accept a settlement of the claim offered by the commissioner, the written decision of the commissioner shall be to deny the claim or it shall be deemed denied if a written decision is not rendered within the time specified in subdivision (a). Evidence of settlement offers and discussions between the commissioner and the claimant shall not be competent evidence in judicial proceedings undertaken by the claimant pursuant to Section 10472.

SEC. 21. Section 10471.5 of the Business and Professions Code is amended to read:

10471.5. (a) The commissioner shall give notice of a decision rendered with respect to the application to the claimant and to a judgment debtor who has filed a timely response to the application in accordance with Section 10471.1.

(b) If the application is denied, the notice to the claimant and judgment debtor shall include the following:

“Claimant’s application has been denied. If the claimant wishes to pursue the application in court, the claimant must file the application as follows in a superior court of this state not later than six months after receipt of this notice, pursuant to Section 10472 of the Business and Professions Code. If the underlying judgment is a California state court judgment, the application shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the Superior Court of the County of Sacramento.”

(c) If the decision of the commissioner is to make a payment to the claimant out of the Consumer Recovery Account, the following notice shall be given to the judgment debtor along with a copy of the decision of the commissioner:

“The decision of the Real Estate Commissioner on the application of ____ is to pay \$____ from the Consumer Recovery Account. A copy of that decision is enclosed.

“Pursuant to Section 10475 of the Business and Professions Code, all of your licenses and license rights under the Real Estate Law will be suspended effective on the date of the payment, and you will not be eligible for reinstatement of any license issued under authority of the Real Estate Law until you have reimbursed the Consumer Recovery Account for this payment plus interest at the prevailing legal rate.”

“If you desire a judicial review of the suspension of your licenses and license rights, you may petition the superior court for a writ of mandamus. If the underlying judgment is a California state court judgment, the petition shall be filed in the court in which the judgment was entered. If the underlying judgment is a federal court judgment, the petition shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the Superior Court of the County of Sacramento. To be timely, the petition must be filed with the court within 30 days of receipt of this notice.”

SEC. 22. Section 10472 of the Business and Professions Code is amended to read:

10472. (a) A claimant against whom the commissioner has rendered a decision denying an application pursuant to Section 10471 may, within six months after the mailing of the notice of the denial, file a verified application in superior court for an Order Directing Payment Out of the Consumer Recovery Account based upon the grounds set forth in the application to the commissioner. If the underlying judgment is a California state court judgment, the application shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the Superior Court of the County of Sacramento.

(b) A copy of the verified application shall be served upon the commissioner and upon the judgment debtor. A certificate or affidavit of service shall be filed by the claimant with the court. Service on the commissioner may be made by certified mail addressed to the headquarters office of the department. Service upon a judgment debtor may be made in accordance with Section 10471.1. The notice served upon the judgment debtor shall read as follows:

“NOTICE: An application has been filed with the court for a payment from the Consumer Recovery Account that was previously denied by the Real Estate Commissioner.

“If the Department of Real Estate makes a payment from the Consumer Recovery Account pursuant to court order, all of your licenses and license rights under the Real Estate Law will be automatically suspended until the Consumer Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

“If you wish to defend in court against this application, you must file a written response with the court within 30 days after having been served with a copy of the application. If you do not file a written response, you will have waived your right to defend against the application.”

SEC. 23. Section 10472.1 of the Business and Professions Code is amended to read:

10472.1. (a) The commissioner and the judgment debtor shall each have 30 days after being served with the application in which to file a written response. The court shall thereafter set the matter

for hearing upon the petition of the claimant. The court shall grant a request of the commissioner for a continuance of as much as 30 days and may, upon a showing of good cause by any party, continue the hearing as the court deems appropriate.

(b) The claimant shall have the burden of proving compliance with the requirements of Section 10471 by competent evidence at an evidentiary hearing. The claimant shall be entitled to a de novo review of the merits of the application as contained in the administrative record.

(c) If the judgment debtor fails to file a written response to the application, the application may be compromised or settled by the commissioner at any time during the court proceedings and the court shall, upon joint petition of the claimant and the commissioner, issue an order directing payment out of the Consumer Recovery Account.

SEC. 24. Section 10473 of the Business and Professions Code is amended to read:

10473. Whenever the court proceeds upon an application under Section 10472, it shall order payment out of the Consumer Recovery Account only upon a determination that the aggrieved party has a valid cause of action within the purview of Section 10471, and has complied with Section 10472.

The commissioner may defend any such action on behalf of the Consumer Recovery Account and shall have recourse to all appropriate means of defense and review, including examination of witnesses and the right to relitigate any issues material and relevant in the proceeding against the Consumer Recovery Account which were determined in the underlying action on which the judgment in favor of the applicant was based. If the judgment in favor of the applicant was by default, stipulation, consent, or pursuant to Section 594 of the Code of Civil Procedure, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant shall have the burden of proving that the cause of action against the licensee was for fraud, misrepresentation, deceit, or conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the fraud, misrepresentation, deceit, or conversion of trust funds by the licensee, which presumption shall affect the burden of producing evidence.

The commissioner may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of Section 10471; provided, however, the commissioner shall give written notice at least 10 days before the motion.

The commissioner may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The commissioner shall not be bound by any compromise or stipulation of the judgment debtor.

SEC. 25. Section 10473.1 of the Business and Professions Code is amended to read:

10473.1. The judgment debtor may defend an action against the Consumer Recovery Account on his or her own behalf and shall have recourse to all appropriate means of defense and review, including examination of witnesses. All matters, including, but not limited to, the issues of fraud, misrepresentation, deceit, or conversion of trust funds, finally adjudicated in the underlying action are conclusive as to the judgment debtor and the applicant in the proceeding against the Consumer Recovery Account.

SEC. 26. Section 10474 of the Business and Professions Code is amended to read:

10474. Notwithstanding any other provision of this chapter and regardless of the number of persons aggrieved or parcels of real estate involved in a transaction or the number of judgments against a licensee, the liability of the Consumer Recovery Account shall not exceed the following amounts:

(a) Except as provided in subdivision (b), causes of action which occurred on or after January 1, 1980, twenty thousand dollars (\$20,000) for any one transaction and one hundred thousand dollars (\$100,000) for any one licensee.

(b) For applications for payment from the Consumer Recovery Account filed on or after January 1, 2009, fifty thousand dollars (\$50,000) for any one transaction and two hundred fifty thousand dollars (\$250,000) for any one licensee.

(c) When multiple licensed real estate personnel are involved in a transaction and the individual conduct of two or more of the

licensees results in a judgment meeting the requirements of subdivision (a) of Section 10471, the claimant may seek recovery from the Consumer Recovery Account based on the judgment against any of the licensed real estate personnel, subject to the limitations of this section and subparagraph (E) of paragraph (7) of subdivision (c) of Section 10471.

SEC. 27. Section 10474.5 of the Business and Professions Code is amended to read:

10474.5. If the amount of liability of the Consumer Recovery Account as provided for in Section 10474 is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, the amount shall be distributed among them in the ratio that their respective claims bear to the aggregate of the valid claims, or in any other manner as the court deems equitable. Distribution of any moneys shall be among the persons entitled to share therein, without regard to the order of priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the commissioner, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all claimants to the Consumer Recovery Account may be equitably adjudicated and settled.

SEC. 28. Section 10475 of the Business and Professions Code is amended to read:

10475. Should the commissioner pay from the Consumer Recovery Account any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson, the license of the broker or salesperson shall be automatically suspended upon the date of payment from the Consumer Recovery Account. No broker or salesperson shall be granted reinstatement until he or she has repaid in full, plus interest at the prevailing legal rate applicable to a judgment rendered in any court of this state, the amount paid from the Consumer Recovery Account on his or her account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this chapter.

SEC. 29. Section 10476 of the Business and Professions Code is amended to read:

10476. If, at any time, the money deposited in the Consumer Recovery Account is insufficient to satisfy any duly authorized claim or portion thereof, the commissioner shall, when sufficient

money has been deposited in the Consumer Recovery Account, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 4 percent a year.

SEC. 30. Section 10477 of the Business and Professions Code is amended to read:

10477. Any sums received by the commissioner pursuant to any provisions of this chapter shall be deposited in the State Treasury and credited to the Consumer Recovery Account.

SEC. 31. Section 10479 of the Business and Professions Code is amended to read:

10479. When, the commissioner has paid from the Consumer Recovery Account any sum to the judgment creditor, the commissioner shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all of his or her right, title, and interest in the judgment to the commissioner and any amount and interest so recovered by the commissioner on the judgment shall be deposited to the Consumer Recovery Account.

SEC. 32. Section 10481 of the Business and Professions Code is amended to read:

10481. Nothing in this chapter limits the authority of the commissioner to take disciplinary action against any licensee for a violation of the Real Estate Law, or of Chapter 1 (commencing with Section 11000) of Part 2, or of the rules and regulations of the commissioner; nor shall the repayment in full of all obligations to the Consumer Recovery Account by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the Real Estate Law.

SEC. 33. Section 11310.1 is added to the Business and Professions Code, to read:

11310.1. Protection of the public shall be the highest priority for the Office of Real Estate Appraisers in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 34. Section 11313.2 is added to the Business and Professions Code, to read:

11313.2. (a) The secretary shall review and evaluate the office, and make recommendations to the Legislature by October 1, 2014,

regarding whether the office should be consolidated within the Department of Real Estate, or consolidated within any other state department or office, and shall provide appropriate justification for that recommendation.

(b) Notwithstanding any other provision of law, on and after January 1, 2015, the office shall be subject to review by the appropriate policy committees of the Legislature. The review shall include, but shall not be limited to, the recommendations of the secretary regarding the office.

SEC. 35. Section 11317.2 is added to the Business and Professions Code, to read:

11317.2. (a) In addition to publishing the summary required by Section 11317, the office shall provide on the Internet information regarding the status of every license and registration issued by the office in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses and registrations issued by the office and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure, registration, or regulation by the office. The information shall not include personal information, including home telephone number, date of birth, or social security number. The office shall disclose a licensee's or registrant's address of record. However, the office shall allow a licensee or registrant to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the office from also requiring a licensee or registrant who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the office's internal administrative use and not for disclosure as the licensee's or registrant's address of record or disclosure on the Internet.

(b) The office shall not provide on the Internet identifying information with respect to private reprovals or letters of warning, which shall remain confidential.

(c) For purposes of this section, “Internet” has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 36. Section 11318 of the Business and Professions Code is amended to read:

11318. (a) A licensee, applicant for licensure, course provider, or applicant for course provider accreditation shall report to the office, in writing, the occurrence of any of the following events within 30 days of the date he or she has knowledge of any of these events:

(1) The bringing of an indictment or information charging a felony against the licensee, applicant for licensure, course provider, or applicant for course provider accreditation.

(2) The conviction of the licensee, applicant for licensure, course provider, or applicant for course provider accreditation of any felony or misdemeanor.

As used in this section, a conviction includes an initial plea, verdict, or finding of guilty, plea of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final, the sentence may not be imposed, or all appeals may not be exhausted.

(3) The cancellation, revocation, or suspension of a license, other authority to practice, or refusal to renew a license or other authority to practice as an occupational or professional licensee or course provider, by any other regulatory entity.

(4) The cancellation, revocation, or suspension of the right to practice before any governmental body or agency.

(b) The report required by subdivision (a) shall be signed by the licensee, applicant for licensure, course provider, or applicant for course provider accreditation and clearly set forth the facts that constitute the reportable event. The report shall include the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.

(c) The licensee, applicant for licensure, course provider, or applicant for course provider accreditation shall also promptly obtain and submit a certified copy of the police or administrative agency’s investigative report and certified copies of the court or

administrative agency's docket, complaint or accusation, and judgment or other order.

(d) A licensee, applicant for licensure, course provider, or applicant for course provider accreditation shall promptly respond to oral or written inquiries from the office concerning the reportable events.

(e) Failure to make a report required by subdivision (a) shall constitute a cause for discipline or denial of an application.

SEC. 37. Section 11319.2 is added to the Business and Professions Code, to read:

11319.2. (a) A license of a licensee or a certificate of a registrant shall be suspended automatically during any time that the licensee or registrant is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The office shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license of the licensee or certificate of the registrant has been automatically suspended by virtue of the licensee's or registrant's incarceration, and if so, the duration of that suspension. The office shall notify the licensee or registrant in writing of the license or certificate suspension and of his or her right to elect to have the issue of penalty heard as provided in subdivision (d).

(b) If after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee or registrant was convicted was substantially related to the qualifications, functions, or duties of a licensee or registrant, the director upon receipt of the certified copy of the record of conviction, shall suspend the license or certificate until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the director.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee or registrant and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the director may

decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the office.

(d) (1) Discipline may be ordered against a licensee or registrant in accordance with the laws and regulations of the office when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be had until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, except that a licensee or registrant may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee or registrant so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee or registrant. If the conviction of a licensee or registrant who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the office from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license or certificate issued by the office shall not apply to proceedings conducted pursuant to this section.

SEC. 38. Section 11360 of the Business and Professions Code is amended to read:

11360. (a) The director shall adopt regulations governing the process and procedures for renewal of a license which shall include, but not be limited to, continuing education requirements, which shall be reported on the basis of four-year continuing education cycles.

(b) An applicant for renewal of a license shall be required to demonstrate his or her continuing fitness to hold a license prior to its renewal. Applicants shall also fulfill continuing education requirements established pursuant to this section and may certify that they have read and understand all applicable California and federal laws and regulations pertaining to the licensing and certification of real estate appraisers in lieu of being required to take a minimum of four hours of federal and California appraisal related statutory and regulatory law every four years.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 39. Section 11360 is added to the Business and Professions Code, to read:

11360. (a) The director shall adopt regulations governing the process and procedures for renewal of a license which shall include, but not be limited to, continuing education requirements, which shall be reported on the basis of four-year continuing education cycles.

(b) An applicant for renewal of a license shall be required to demonstrate his or her continuing fitness to hold a license prior to its renewal. Applicants shall also fulfill continuing education requirements established pursuant to this section and shall be required to take a minimum of four hours of federal and California appraisal related statutory and regulatory law every four years.

(c) This section shall become operative on January 1, 2013.

Approved _____, 2011

Governor