

# DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

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The Department of Financial Protection and Innovation (DFPI) serves as California’s primary regulator of financial service providers and products. DFPI was previously known as the Department of Business Oversight (DBO) until September 29, 2020, when Governor Newsom signed [AB 1864 \(Limón\) \(Chapter 157, Statutes of 2020\)](#), which renamed the Department of Business Oversight to the Department of Financial Protection and Innovation. The bill allowed DFPI to retain all the powers, duties, responsibilities, and functions of DBO. [[26:1 CRLR 213–215](#)]

As part of Governor Brown’s 2012 “Governor’s Reorganization Plan (GRP),” DBO (now DFPI) was formed by merging the Department of Corporations (DOC) and the Department of Financial Institutions (DFI). DFPI operates within the Business, Consumer Services and Housing Agency. DFPI’s executive officer, the “Commissioner of Financial Protection and Innovation,” oversees the Department. DOC and DFI continue to operate as individual divisions within DFPI and are led by a Senior Deputy Commissioner of Corporations and Financial Institutions.

DFPI, as a whole, seeks to provide services to businesses and protect consumers involved in financial transactions. The rules promulgated by DFPI are outlined in Division 3, Title 10 of the California Code of Regulations (CCR). Its statutory jurisdiction includes the Corporate Securities Law of 1968 (Corporations Code section 25000, et seq.), which requires the “qualification” of all securities offered and/or sold in California. “Securities” are broadly defined and may include various business opportunities in addition to traditional stocks and bonds. Many securities may be

qualified through compliance with the federal Securities Acts of 1933, 1934, and 1940. If the securities are not under federal qualification, the Commissioner may issue a permit for their sale in California.

The Commissioner also enforces a group of more specific statutes involving other business transactions: the California Financing Law (Financial Code section 22000 et seq.); the California Residential Mortgage Lending Act (Financial Code section 50000 et seq.); the Franchise Investment Law (Corporations Code section 31000 et seq.); the Security Owners Protection Law (Corporations Code section 27000 et seq.); the California Commodity Law of 1990 (Corporations Code section 29500 et seq.); the Escrow Law (Financial Code section 17000 et seq.); the Check Sellers, Bill Payers and Pro-raters Law (Financial Code section 12000 et seq.); the Securities Depository Law (Financial Code section 30000 et seq.); the Capital Access Company Law (Corporations Code section 28000 et seq.); the California Consumer Financial Protection Law (CCFPL) (Financial Code section 90000 et seq.) and Student Loan Servicing Act (Financial Code section 28100 et seq.).

At the end of 2021, DFPI maintained oversight of 24 financial service industries and licensees, including, but not limited to: 41 student loan servicers, 102 premium finance companies, 120 state and 158 federal credit unions, 8 trust companies, 2,578 registered broker-dealer firms, and the 3,734 registered investment adviser firms.

DFPI consists of the following divisions: (1) the Administrative Division, which provides DFPI with administrative support services; (2) the Consumer Services Division, which develops public affairs strategies; (3) the Division of Consumer Financial Protection, which will supervise financial services not now regulated by the Department; (4) the Division of Corporations and Financial Institutions; (5) the Enforcement Division, which enforces the laws administered by

DFPI; (6) Executive Office; (7) the Information Technology Office, which is responsible for technical support services; (8) the Legal Division, which includes all in-house legal counsel; (9) the Legislation Division, which monitors and tracks all bills related to DFPI and provides guidance on legislative issues; and (10) The Policy Division, which formulates institutional policy for DFPI.

The Executive Office is subdivided into the following programs: (1) the Equal Employment Opportunity Office; (2) Licensing & Information Reporting; (3) Internal Audits; (4) Strategic Planning; (5) the Office of Financial Technology Innovation, which researches new technology; and (6) the Office of the Ombuds, which reviews complaints about DFPI actions or staff. The Division of Corporations and Financial Institutions is subdivided into the following programs: (1) the Banking Program, which licenses and regulates trust companies and commercial banks; (2) the Broker-Dealer/Investment Adviser Program, which licenses and regulates broker-dealers in the state; (3) the Credit Union Program, which licenses and regulates state-chartered credit unions; (4) the Financial Services Office, which is responsible for licensure of payday and finance lenders; (5) the Money Transmitter Program, which licenses and regulates money transmitters and issuers of money instruments such as money orders, travelers' checks, and value cards; and (6) the Mortgage Lending Program, which is responsible for the licensure of residential mortgage lenders.

The Division of Corporations and Financial Institutions' regulatory purview extends over broker-dealers and investment advisers, California Deferred Deposit Originators "payday lenders," California residential mortgage lenders, originators and servicers, finance lenders, Property Assessed Clean Energy (PACE) program administrators, responsible small-dollar loans (pilot programs), student loan servicers, domestic and foreign banks, industrial banks, credit unions, money transmitters (Western Union, PayPal, and others), premium finance companies, and

trust companies and departments. DFPI has two primary regulatory responsibilities: protect consumers and protect the health of financial service markets.

On January 10, 2022, Governor Newsom [proposed](#) a state budget. The proposed budget would add over 40 positions to DFPI and increase spending by roughly 5%. The additional positions will primarily be allocated to the lender-fiduciary, debt collectors and consumer financial protection programs as a result of the California Consumer Financial Protection Law and the Debt Collection Licensing Act.

On December 6, 2021, Celina Damien [started](#) as DFPI's first-ever Student Loan Ombudsperson. This new position fulfills the requirements of [AB 376 \(Stone\) \(Chapter 154, Statutes of 2020\)](#), and will help inform student borrowers of their rights through education and outreach as well as review complaints and coordinate with other state agencies to protect California consumers.

On March 11, 2022, Governor Newsom [appointed](#) Adrian Diaz as the Deputy Commissioner of External Affairs for DFPI. The position's duties include providing strategic advice and management relating to high-profile stakeholder engagement issues; managing new and existing external committees, workgroups and task forces; and leading special projects that cross internal divisions and/or have a high level of scrutiny from the legislature, the Governor's office, or key stakeholders.

# HIGHLIGHTS

## Student Loan Ombudsperson Begins Work as New Position within DFPI

On December 6, 2021, Celina Damian began working as DFPI first Student Loan Ombudsperson. According to the Department’s December 2021 [monthly bulletin](#), Ms. Damian previously worked with the Department of Social Services-Community Child Care Division and the Department of Industrial Relations- Labor Commissioner’s Office.

The student loan ombudsperson was created by [AB 376 \(Stone\) \(Chapter 154, Statutes of 2020\)](#), which required DFPI’s Commissioner to designate a Student Loan Ombudsman and hire new staff as needed to implement by the new provision by January 1, 2022. [[26:1 CRLR 222–23](#)] DFPI’s [website](#) allows visitors to submit complaints about licensees in general, but the student loan ombudsperson focuses on complaints about student loans.

Per the bill, the student loan ombudsperson will receive and review complaints and will refer complaints to the appropriate office within DFPI if outside the student loan purview. If complaints concern servicers who are not subject to licensing under the Student Loan Servicing Act, those complaints must be referred to the Department of Justice. (See Civil Code section 1788.104 (f)).

Pursuant to section 1788.104 of the Civil Code, the ombudsperson must submit a report to the “appropriate committees of the legislature having jurisdiction over higher education and financial institutions” by January 1, 2023, and then annually thereafter. This report must include information on “the types of complaints received regarding student loan borrowing, student loan repayment and servicing, and how these complaints are resolved.” Lastly, it should provide any data or analysis about other outstanding student loan issues (Civil Code section 1788.104 (g) (6)).

Per DFPI's [statement](#) about the position, they indicate that the Student Loan Ombudsperson will also be involved with “help[ing] inform student borrowers of their rights through education and outreach.”

## **SB 577 Seeks to Update Current Money Lending Law in California**

[SB 577 \(Limón\)](#), as amended January 12, 2022, is a two-year bill that would amend sections 2105, 17202.1, 17414.1, and 80001 of, add section 22050.5 to, and repeal section 80002 of the Financial Code to provide a series of corrections to the Financial Code pertaining to duties of DFPI.

Specifically, this bill would amend section 2105 to specify the notice that money transmitters must display to operate within the state and would also update the contact information from the now-defunct DBO to current information for DFPI, including a toll-free number, address, and email.

The current Financial Code states that any person serving in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, cannot do so if they have been “convicted of or pleaded nolo contendere to specific crimes.” This bill would continue that restriction and amend section 17414.1(b)(1) to reflect the correct chapter, section, and division of the Financial Code that lists the restricted practices. Current law as written, references a chapter, section, and division of the Code that does not exist.

Existing California law provides that a person who only makes one commercial loan in a 12-month period is exempt from the provisions of the California Financing Law (CFL) regulating finance lenders, brokers, and specified program administrators. This de minimus exemption did

not require these lenders to register with DFPI for a license. The aforementioned provision was effective until January 1, 2022, and this bill would amend that law, extending the effective date indefinitely. Without this change, any person who makes even one commercial loan will need to register with DFPI for the appropriate license as a money transmitter. Current lenders who fell within this exception are technically now required to register for a license with DFPI as the sunset date of January 1, 2022, has passed.

Currently, the BankOn California program within DFPI must provide annual reports on the activities of the program to the respective chairpersons of the Senate Committee on Bank and Financial Institutions and the Assembly Committee on Banking and Finance. This bill would repeal that requirement entirely. The BankOn California program is no longer active within the state and this bill would remove the requirement to provide an unnecessary report to the California legislature.

Finally, the bill contains an urgency clause due to the “complex financial transactions governed by the California Financing Law” and declares that immediate action is needed to avoid further delays for those entities falling within some of the exceptions amended in this bill. If signed, this bill would go into effect immediately.

The bill was passed in the Assembly Appropriations Committee and ordered to the Senate on April 07, 2022.

## **Department Joins Commodity Futures Trading Commission and 26 Other State Regulators in Federal Lawsuit against Safeguard Metals**

On February 1, 2022, DFPI [announced](#) that it, in partnership with the federal Commodity Futures Trading Commission (CFTC) and 26 other state regulators, has filed a [federal lawsuit](#) in

the United States District Court for the Central District of California (Case No. 2:22-cv-00691) against Safeguard Metals LLC and its principal and owner, Jeffrey Santulan, also known as Jeffrey Hill, for perpetrating a \$68 million fraudulent scheme that targeted the elderly population. The defendants' alleged conduct began in October 2017 and continued through July 2021. The Securities and Exchange Commission (SEC) filed a [civil enforcement action](#) against the same defendants alleging violations of federal Securities Laws.

The complaint alleges that Safeguard Metals and Santulan perpetrated an ongoing fraud to solicit approximately \$68 million from over 450 individuals nationwide to purchase precious metals and coins, including that Safeguard Metals made false statements on its website, inflated its assets by billions, and used fear tactics to motivate senior citizens to purchase the precious metals and coins. Specifically, the complaint alleges that defendants made the following false and misleading claims:

- Safeguard Metals is rated number one among wealth protection firms (with no basis for this assertion);
- Safeguard Metals oversees more than \$11 billion in assets under its management (when in reality the firm has sold substantially less than \$75 million in precious metals and silver coins since it has been in business);
- Safeguard metals have been in business for over twenty years (the startup formed in 2017 but did not appear to have significant operations until 2019).

According to the complaint, Safeguard Metals charged an average markup of 71% and, more recently, a 51% markup on the precious metals. The company disclosed the markups to consumers by referring to them as “operating margins” or the cost incurred from Safeguard Metal’s purchase of the precious metals and coins from the original seller. The complaint alleges that 97%



of the company's sales stem from mostly inexperienced investors' purchase of silver coins. Out of the \$68 million involved in the allegedly fraudulent scheme, \$66 million was derived from the purchase of the silver coins, with \$26 million solely from markups.

The complaint further alleges the defendant instructed sales representatives or other agents to concentrate their fraudulent solicitations on elderly or retirement-aged persons to secure access to their retirement savings. Safeguard Metals sales representatives and other agents allegedly recommended that customers form Self-Directed Individual Retirement Accounts (SDIRA) and hold the precious metals at a depository instead of taking delivery of the metals themselves. Customers were informed this was the safest way to store precious metals as the depository was purportedly federally insured, and individuals could be frozen out of traditional retirement accounts if the stock market were to crash.

Once a customer opened an SDIRA, often through a custodian and depository recommended by Safeguard Metals, Safeguard Metals was then partly authorized to buy or sell precious metals in the customer's SDIRA. Unless the customer knew how to remove Safeguard Metals as the designated representative of their SDIRA, the customer could not liquidate their precious metal holdings without going through Safeguard Metals to unwind their investment.

Accordingly, plaintiffs seek equitable and injunctive relief pursuant to section 2(a)(1)(B) of the Commodity Exchange Act (CEA), 7 USC §2(a)(1)(B), and CFTC regulation 1.2, 17 CFR §1.2. The complaint seeks a permanent injunction to stop the practices and disgorgement, full restitution, rescission, and civil monetary penalties.

In the DFPI press release announcing the lawsuit, Commissioner Clothilde V. Hewlett said, "Brazen attempts to target senior citizens, or other vulnerable populations will not be tolerated in California. We hope the message is coming across loud and clear to the precious metals industry:

we will not tolerate deception and fraud in the commodities industry and are committed to holding bad actors accountable for their actions.”

Defendants have until May 4, 2022, to answer or otherwise respond to the complaint.

## **AB 2839 (Villapudua) Proposes New Requirements for Department Regarding Responsible Small Dollar Loans Program**

[AB 2839 \(Villapudua\)](#), as amended March 17, 2022, would amend section 22370 of the Financial Code as it relates to the CFL’s Pilot Program for Increased Access to Responsible Small Dollar Loans.

The Pilot Program for Increased Access to Responsible Small Dollar Loans (RSDL), created under [SB 318 \(Hill\) \(Chapter. 467, Statutes of 2013\)](#), aims to increase the availability of installment loans of at least \$300 but less than \$2,500. Financial lenders licensed under CFL and approved by the Commissioner of DFPI to participate in the program are permitted to charge specified alternative rates and charges, including an administrative fee and delinquency fees, on loans between \$300 and \$2,500. The program is currently scheduled to run until January 1, 2028, and requires licensees and other entities that wish to participate in the program to file an application and pay a fee to the Commissioner of DFPI. Before dispersing loans through RSDL, licensees must offer a credit education program to borrowers or invite the borrower to a credit education program offered through an independent third party. The requisite credit education program must be previously reviewed and approved by the Commissioner of DFPI.

AB 2839 would require DFPI to provide a list of approved credit education programs and providers on its website. The bill would also allow licensees approved to participate in RSDL to charge a monthly maintenance fee but would prohibit the monthly maintenance fee from being

added to the loan balance upon which interest is charged. Licensees would also be required to disclose the amount of the monthly maintenance fee when a consumer applies for a loan under RSDL.

At this writing, AB 2839 is pending before the Assembly Committee on Banking and Finance.

## MAJOR PUBLICATIONS

The following reports/studies/guidelines have been conducted by or about DFPI during this reporting period:

- [\*Biennial State Leadership Accountability Act Report – 2021\*](#), DFPI, December 2021 (Pursuant to section 13400 of the Government Code, also known as the State Leadership Accountability Act (SLAA), provides the 2021 Biannual Report on the Department’s internal control and monitoring systems.)
- [\*Annual Report of Finance Lenders, Brokers, and PACE Administrators Licensed Under the California Financing Law\*](#), DFPI, January 2022, revision of previously published report (Pursuant to sections 22160 and 22692 of the Financial Code, 2020 Annual Report of Finance Lenders, Brokers, and PACE Administrators Licensed Under the California Financial Law from 2019; reports a 99.9% decrease of consumer loans with a principal loan amount between \$2,500 and \$10,000 and Annual Percentage Rate (APR) of 100% or more following the effective date of [AB 539 \(Limón\) \(Chapter 708, Statutes of 2019\)](#) which prohibits lenders from contracting or receiving charges at a rate annual simple interest of 36% plus the Federal Funds Rate; reports consumer loans secured with an auto title decreased by 94%; reports that PACE program administrators’ gross income decreased by 30% due to the COVID-19 pandemic; reports a 530.2%

increase in the number of consumers with a significant increase of “buy now, pay later,” unsecured loans 91% of which are held by six lenders; reports 117.2% increase in consumer loans secured by real estate.) This report was published in October 2021 but retracted and republished here with revisions to the PACE data section.

- [\*California Consumer Financial Protection Law Report\*](#), DFPI, March 2022 (Pursuant to section 90018 of the Financial Code, 2021 Annual Report of Activity under the CCFPL, including pending rulemaking; reports 106 total investigations opened that resulted in 49 public actions, \$975,000 in restitution to consumers, and \$547,500 in penalties; provides an update on organizational structures including the formation of a research team to help DFPI identify emerging financial consumer issues and make policy recommendations, an outreach team to focus on underserved communities, and the Office of Financial Technology Innovation (OFTI); reports that the Consumer Services Office (CSO) received 638 complaints and responded to 85% of those complaints, the top categories of complaints included debt collection, cryptocurrency, and “neo banks.”) This report reflects the first full year of CCFPL implementation by DFPI.

- [\*Cal Money Smart Grant Program Annual Report\*](#), DFPI, January 2022 (Pursuant to section 24000 of the Financial Code, discloses the information and data of 12 nonprofit organizations selected from across the state for the 2020–21 CalMoneySmart grant cycle, to execute financial empowerment programs for unbanked and underbanked consumers; reports \$993,389 in grants issued from the Financial Empowerment Fund, serving the public in 33 counties with 3,417 unbanked participants.) [SB 455 \(Bradford\) \(Chapter 478, Statutes of 2019\)](#) allows for up to \$1 million grant each year from the Financial Empowerment Fund. [\[25:1 CRLR 292\]](#) The [state budget](#) granted \$10 million in additional funds for this program in the future, allowing up to \$2 million in grants each year.

- [\*Broker-Dealer/Investment Advisers Report\*](#), DFPI, January 2022 (Pursuant to section 25102.1 of the Corporations Code, reports that the Broker-Dealer/Investment Adviser Program (BDIA) has 12 vacancies in the administration that are recommended to be filled; reports that DFPI conducted a total of 546 total examinations and 17 violations were found; reports that books and records violations were found in the remaining 529 examinations but that licensees took corrective action by implementing procedures to mitigate future violations. DFPI further reports that due to the implementation of section 15630.2 of the Welfare and Institutions Code, which expanded the category of mandated reporters of suspected financial abuse to include broker-dealers and investment advisers [[25:1 CRLR 293](#)], they have reallocated staff to adjust to the new reporting laws; reports that four additional staff members is recommended to handle reviewing the new reporting requirements of broker/dealers.)

- [\*California Residential Mortgage Lending Act \(Holden Act\) 2020 Annual Report\*](#), DFPI, December 2021 (Pursuant to section 38815(b) of the Health and Safety Code, 2020 Annual Report of the California Residential Mortgage Lending Act, also known as the Holden Act, reports that only 25 of 13,521 DFPI-licensed lenders had enough loan activity specific to the qualification of the Holden report to warrant they submit the relevant Residential Mortgage Loan Report information, this comprised just 0.07% of the overall number of loans made by all DFPI licensees, but was an increase from 18 licensees' reports in 2019. To summarize the requirements in the Holden Act: lenders must have assets totaling \$10 million or less, have regularly funded real estate purchase and/or home improvement loans, and have originated less than 100 home purchase loans per year. The report discloses that due to the extremely limited number of DFPI-licensed lenders that filed reports, no conclusions can be drawn from the data; reports that the information from the 25 DFPI licensees does not show any violations of the Holden Act.)

- [Financial Institution Annual Activity Report, 2021 State of Banking](#), DFPI, January 2022 (Reports that during 2021: one state-chartered commercial bank opened, one converted to a foreign bank charter, and six banks merged out of existence; no change to the number of industrial banks; one state-chartered credit union merged with another institution; one premium finance company opened and four voluntarily surrendered their licenses; one trust company opened for business; one state-chartered bank trust departments came into being; one depository agency closed, and one wholesale branch office converted to a representative office; one new representative office opened, one wholesale branch office converted to a representative office and one representative office closed; nine money transmitters opened and one closed.)

## **RULEMAKING**

The following is a status update on recent rulemaking proceedings that DFPI has initiated:

- **PRO 09/17 – Credit Union Law:** On January 7, 2022, OAL [approved](#) regulatory action PRO 09/17 from DFPI, which amends sections 30.102, 30.200, 30.300, 30.803, Title 10, of the CCR to revise the application process for out-of-state credit unions to operate in California. OAL also approved DFPI’s request to repeal section 30.101.5, Title 10 of the CCR, which now allows credit unions to use language like, “bonded to,” “supervised by,” “regulated by,” “licensed by,” “audited by,” or “examined by” the State of California or any agency thereof in their advertisements. DFPI originally published notice of its intent to amend the aforementioned sections on June 26, 2020. [\[26:2 CRLR 261\]](#) There were three rounds of comments sought in support of this rulemaking; the comment period on the third round ended November 24, 2021. [\[27:1 CRLR 293\]](#) The amended regulation became effective April 1, 2022.

- **PRO 02/20 – Debt Collection Regulations License Application and Requirements:** On December 22, 2021, OAL [approved](#) DFPI’s proposed adoption of various sections, commencing with section 1850, Title 10 of the CCR to enforce the DCLA by establishing license and application procedures. These adopted sections define language in the Financial Code that might have otherwise been vague and establish procedures for debt collectors to gain a license within the new, electronic NMLS system. DFPI originally published notice of its intent to amend the aforementioned sections on April 23, 2021. [[27:1 CRLR 280–281](#)] There were two rounds of comments sought on the proposed rulemaking; the comment period on the second round ended December 2, 2021. [[27:1 CRLR 292](#)] The adopted regulations became effective December 22, 2021.

- **Surety Bond – Residential Mortgage Lender and/or Servicer:** On November 30, 2021, OAL [approved](#) DOJ’s request to amend section 31.11, Title 11 of the CCR. This revises the surety bond for residential mortgage lenders and/or servicers. The new surety bond has had its language condensed and revised to reflect the new NMLS system for licensees, the updated name for DFPI from the older “Department of Corporations,” and updated language about the National Association of Insurance Commissioners (NAIC) license numbers for the surety provider. Section 50205 of the CFC demands licensees maintain a surety bond. Completion of this updated bond document fulfills this requirement.

- **PRO 1/20 - Public Banking Regulations:** On January 1, 2022, [regulations](#) to implement and administer [AB 857 \(Chiu\) \(Chapter 442, Statutes of 2019\)](#), went into effect. This rulemaking [authorizes](#) California’s first public banks and defines terms used in the public banking process and clarifies the process itself. Under this rulemaking action, public banks may offer local agency banking, infrastructure lending, participation lending, and wholesale lending. The

rulemaking amends sections 10.112; 10.141; 10.151; 10.3000; 10.3100; 10.3402; and the title of Subarticle 2, Article 4; and adopts sections 10.131.7; 10.135.1; 10.140.1; 10.140.6; 10.141.1; 10.166.1; and 10.3301.1 in Chapter 1 of Title 10 of the CCR. OAL [approved](#) the regulatory action on September 14, 2021. [[27:1 CRLR 288](#)]

- **PRO 1/21 - CCFPL Registration:** On November 17, 2021, DFPI published an [invitation for comments](#) on [proposed rulemaking](#) under the California Consumer Financial Protection Law that would require registration of the following four industries that provide financial products and services to California Consumers: debt settlement services, student debt relief services, education financing, and wage-based advances. The comment period concluded December 20, 2021. The drafted rulemaking received 18 [comments](#). At this writing, no further action has been taken.

- **PRO 1/18: Commercial Financing Disclosures:** On November 22, 2021, the [public comment period](#) closed for the [fourth modification text](#) to amend sections 900, 901, 910, 911, 912, 913, 914, 915, 916, 917, 920, 921, 922, 930, 931, 940, 941, 942, 943, 950, 951, 952, 953, 954, 955, and 956, to Title 10, Chapter 3 of the CCR. These regulations would implement [SB 1235 \(Glazer\) \(Chapter 1011, Statutes of 2018\)](#). The proposed regulations are under review by the OAL, File Number 2021-1230-02. The proposed regulations would require a “provider,” defined as a person who extends a specific offer of “commercial financing” to a recipient, to give the recipient certain disclosures at the time the provider extends the offer. The original [notice](#) and the [initial statement of reasons](#) were published on September 11, 2020. [[27:1 CRLR 295](#); [26:1 CRLR 221–222](#)]. At the time of this writing, no further action has been taken.



# LEGISLATION

- [AB 1754 \(Chen\)](#), as introduced February 1, 2022, would amend sections 100002 and 100006.5 of the Financial Code, expanding the definition of a collection agency to include a “business entity that acts as a broker, forwarder, intermediary, or middleman that sends or refers repossession assignments or repossession orders to repossession agencies or repossession agents in California.” This bill would cover more entities engaged in collection practices for DFPI regulation to ensure proper adherence to debt collection laws. If this bill were to pass it would also have the consequence of expanding the scope of the crime of perjury because license applicants must sign the application under penalty of perjury. *[A. B&F]*
- [AB 1841 \(Grayson\)](#), as amended April 5, 2022, would add section 381.5 to the Financial Code to require the Department, on or before January 1, 2025, to launch an online training program for officers and employees of financial institutions regarding the economic abuse of victims of domestic violence. This training would need to contain instruction on the nexus between domestic violence and financial insecurity, with instruction on how to report and respond to economic abuse. This bill would also require DFPI to expand its current community outreach to survivors of domestic violence, nonprofit organizations, community groups, and other stakeholders in developing the training required, making available on its website the training program. Per the author of the bill, the intention is to educate and raise awareness about a form of interpersonal violence that is less visible: financial abuse. The author sees economic independence as an overlooked key to helping people leave abusive relationships. *[A. B&F]*
- [AB 2380 \(Maienschein\)](#), as amended on April 5, 2022, would add section 22348 to the Financial Code to prohibit licensees from making consumer loans to purchase a dog or cat if that loan is through a merchant or retailer. Violation of this proposed CFL would be a crime.

The author notes that these financing partnerships between pet retailers and commercial breeders encourage the breeders to continue their operations; therefore, regulating this connection via the loans will stop the perpetuation of commercially sold dogs and cats. *[A. B&F]*

- [AB 2424 \(Blanca Rubio\)](#), as amended March 31, 2022, would amend various sections (commencing with section 1789.11) and add sections 1789.134 and 1789.135 to the Civil Code, to add credit service organizations to the industries regulated by DFPI. Currently, these organizations are only required to obtain a surety bond of \$100 and register with the Attorney General. This bill would require credit service organizations to provide monthly statements of services performed to their customers and would also require they perform the agreed-upon services for their customers within 180 days. This bill would also require other administrative record keeping which DFPI would regulate. Violation of this proposed CFL would be a crime. *[A. Priv&CP]*

- [SB 577 \(Limón\)](#), as amended January 12, 2022, would amend sections 2105, 17202.1, 17414.1, and 80001, add section 22050.5, and repeal section 80002 of the Financial Code, to reinstate the de minimus CFL exemption, (Financial Code section 22000 et seq.). This bill would also repeal the requirement that DFPI provides a BankOn Annual Report and would correct some obsolete references in current escrow law (see HIGHLIGHTS). *[S. Rules]*

- [SB 1324 \(Durazo\)](#), as amended April 7, 2022, would amend sections 1788.2, 1788.11, and 1788.17 of the Civil Code and would amend section 100002 of the Financial Code, to refine the term “consumer debt” to include past due rental debt from on or after January 1, 2019. This would force rent collectors and landlords to abide by the Rosenthal Act (Civil Code section 1788 et seq.) for fair debt collection. This bill would specify that, for the purposes of the Rosenthal Act, the term “consumer credit transaction” does not mean a transaction that results in rental debt.

Further, this bill clarifies that even with adherence to the Rosenthal Act it would not require landlords to provide a special notice upon initial contact, nor would they have to validate rental debts upon request from a tenant. The current Rosenthal Act does not specifically cover rent collectors or landlords; this bill would explicitly do so. According to the bill analysis, this bill addresses rental debt collection that were exacerbated by the COVID-19 pandemic. *[S. Jud]*

- [SB 1348 \(Bradford\)](#), as amended April 7, 2022, would amend section 17414.1 of the Financial Code regarding eligibility to serve as an escrow agent with an offense record. Currently, serving in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent in this state, is prohibited if that person has been convicted or pleaded nolo contendere to specific crimes in the last 10 years, or been held liable in a civil action within the last seven years. This bill would remove offenses involving controlled substances from the list of disqualifying offenses. This bill would also make non-substantive corrections to references. *[S. B&FI]*

- [SB 1396 \(Bradford\)](#), as amended March 16, 2022, would amend section 1954.06 to the Civil Code to require DFPI to select an independent evaluator to collect data on landlords of assisted housing development. DFPI's selection would conduct an evaluation on the impact of rental payment reporting, report on the percentage of assisted housing developments in compliance with this proposed provision, and report on the number of participating tenants. According to the committee analysis, this bill is meant to work with [SB 1157 \(Bradford\) \(Chapter 204, Statutes of 2020\)](#) (Civil Code section 1954.06), a pilot program passed in 2020 for tenancy credit reporting, to allow tenants to have their landlords report their "full-file," the good and bad, which will, in theory, allow these tenants to more successfully grow their credit scores. This bill would allow for

regulated data collection on the outcomes of the SB 1157 pilot program before it sunsets and would require DFPI to publish this data for future studies. *[S. Jud]*

- [SB 1415 \(Limón\)](#), as amended March 15, 2022, would add section 521 to the Financial Code to require a DFPI licensed bank or credit union to report annually the amount of revenue earned from fees paid by its customers related to overdraft and the percentage of overdraft revenue as a proportion of the net income of the bank or credit union. According to the author, the purpose of this bill is to provide clarity on overdraft fees to the public. The bill would also require DFPI to publish a report on this information. *[S. Rules]*

- [SB 1465 \(Allen\)](#), introduced on February 18, 2022, would amend section 378 to the Financial Code to non-substantively change word choice for the Commissioner from “he or she” to “they.” *[S. Rules]*

- [SB 1498 \(Limón\)](#), introduced on March 21, 2022, would amend various sections of the Business and Professions Code, Civil Code, Code of Civil Procedure, Corporations Code, Education Code, Government Code, Insurance Code, Labor Code, Probate Code, Public Resources Code, and the Welfare and Institutions Code to reflect the change of name from “Department of Business Oversight” to “Department of Financial Protection and Innovation.”

This bill would also amend the Money Transmission Act (California Financial Code, Division 1.2, commencing with section 2000) to specify that “money transmission” means selling or issuing payment instruments or stored value to a “person located in this state” or receiving money for transmission from a “person located in this state,” further refining the definition of a money transmitter to an entity engaging with a person specifically in California.

The proposed bill would also amend the civil action clause in the Money Transmission Act to reflect the current division of oversight by DFPI, the Department of Insurance, and the Attorney General. *[S. B&FI]*

- [AB 676 \(Holden\)](#), as amended January 14, 2022, would amend sections 20015, 20022, and 20041 of, and add section 20044 to, the Business and Professions Code and would amend sections 31004, 31013, 31115, and 31306 or, and add sections 31126, 31212, 31221, and 31512.1 to the Corporations Code to create new prohibitions and requirements for franchises. Specifically, this bill would clarify that the Commissioner of DFPI has the authority to summarily issue a stop order denying suspending or revoking the effectiveness of any registration if the Commissioner finds, but is not limited to, a failure to comply with the Franchise Investment Law or the rules of the Commissioner pertaining to that law. The bill would also authorize the Commissioner to promptly issue a stop order if they find the franchisor’s business methods include or would include activities that are or would be illegal. *[S. Rules]*

- [AB 2001 \(Grayson\)](#), as introduced on February 14, 2022, would amend sections 22154 and 22155 of, and to add section 22157.1 to, the Financial Code to authorize a licensed financial lender to select an employee when acting within the scope of their employment, to perform work on behalf of the licensee at a remote location, if the licensee takes certain actions. These actions include the licensed financial lender prohibiting a consumer’s personal information from being physically stored at a remote location except for storage on an encrypted device, prohibiting in-person consumer interactions at a remote location, and providing an employee working at a remote location with the proper equipment, which may include encrypted devices, virtual private networks, and similar technology. Section 22157.1(a) defines “remote location” as

a personal residence or a temporary, nonpublic location that is not simultaneously accessible by anyone other than an employee and the employee's immediate family. *[A. Priv&CP]*

- [AB 2191 \(Mathis\)](#), as amended March 8, 2022, would amend section 90018, of the Financial Code to include the total number of elder financial abuse reports filed with broker-dealers and investment advisers in the annual California Consumer Financial Protection Law report. Current law requires the Commissioner to include the total number of elder financial abuse reports filed with local law enforcement agencies and county adult protective service agencies, but this would be replaced with elder financial abuse reports filed with broker-dealers and investment advisers. *[A. B&F]*

- [AB 2215 \(Blanca Rubio\)](#), as amended March 24, 2022, would add Article 12.5 (commencing with section 51834) to the Education Code to establish a public-private partnership to seek out and determine the best methods of instructing pupils in personal finance. This bill would also develop financial education standards and professional development opportunities and share financial education resources with school districts, county offices of education, and charter schools. The partnership would be required to submit a report to the Governor, the Treasurer's office, and the appropriate policy committees of the legislature on or before January 1, 2025, and annually thereafter, with information regarding financial literacy education efforts. Specifically, the bill would require one representative from DFPI, appointed by the Commissioner, to serve a purely advisory, nonvoting role for a two-year term of service. DFPI would be permitted to provide additional technical and logistical support. *[A. Ed]*

- [AB 2308 \(Kiley\)](#), as introduced February 16, 2022, would amend section 1798.3 of the Civil Code regarding the Information Practices Act of 1977 and commercial purposes. This bill would amend section 1798.3(j) definition of "commercial purpose" to mean any purpose that

has financial gain as an objective. The current law defines “commercial purposes” as any purpose with financial gain as a major objective. This bill would also amend section 1798.3(k) to replace “the Department of Business Oversight” with the updated title of “the Department of Financial Protection and Innovation.” *[A. Priv&CP]*

- [AB 2433 \(Grayson\)](#), as amended March 11, 2022, would amend various sections of the Corporations Code and the Financial Code, relating to unlawful practices of broker-dealers and investment advisors. The bill would give DFPI’s Commissioner the authority to act, if after examination and investigation, the Commissioner has reasonable grounds to believe that a broker-dealer or investment advisor is violating a law or rule, conducting business in an unsafe or injurious manner. Specifically, this bill would allow the Commissioner to also issue a citation or discontinuance to a person in these circumstances when the commission has cause to believe that a person has violated that law, or any rule or order promulgated pursuant to that law. This bill would expand the authority of DFPI’s Commissioner to pursue disciplinary actions against broker-dealers, investment advisors, licensed escrow agents, and others if the Commissioner has reasonable grounds to believe the individual in question had broken the law under DFPI’s authority. *[A. Floor]*

- [AB 2677 \(Gabriel\)](#), as introduced February 18, 2022, would amend various sections of the Civil Code to make various changes to the Information Practices Act of 1977. Existing law exempts counties, cities, any city and county, school districts, municipal corporations, districts, political subdivisions, and other local public agencies from specified requirements, prohibitions, and remedies regarding collection, storage, and disclosure of personal information, as defined within the Information Practices Act of 1977. This bill would remove that exemption for local agencies and include genetic information, IP address, online browsing history, and

location information within the definition of “personal information” for the purposes of the act.  
*[A. Priv&CP]*

- [AB 2839 \(Villapudua\)](#), as amended March 17, 2022, would amend section 22370 of the Financial Code as it relates to CFL’s Pilot Program for Increased Access to Responsible Small Dollar Loans. The bill would, among other things, require DFPI to provide a list of approved credit education programs and providers on its website (see HIGHLIGHTS). *[A. B&F]*

- [SB 909 \(Bogh\)](#), as introduced February 2, 2022, would amend section 22202 of the Financial Code. This bill would make nonsubstantive changes to the CFL which provides for the licensure and regulation of finance lenders and brokers by the Commissioner of DFPI and regulates the provision of consumer loans. *[S. Rules]*

- [SB 1176 \(Limón\)](#), as amended March 30, 2022, would add Division 26, commencing with section 100100, to the Financial Code. This bill would require DFPI to conduct and publish a peer group analysis of the mortgage-related activities of each licensee as reflected in data provided pursuant to the Home Mortgage Disclosure Act. The bill would also require DFPI to seek information from regulators in other states who have enacted laws modeled after the Community Reinvestment Act and determine best practices in implementing those laws. DFPI would also be required to review its statutory authority, regulations, and processes related to the examination of a licensee and determine whether DFPI has adequate authority to assess a licensee for how well the licensee meets the financial service needs of underserved communities. According to the author, the will would “establish an obligation that our state-regulated financial institutions meet the needs of underserved communities and to create a framework that provides a public process for evaluating how these institutions are living up to that obligation.” *[S. Jud]*



- [SB 1323 \(Archuleta\)](#), as introduced February 18, 2022, would amend various sections of the Civil Code. This bill would require that an equity sale of property under a power of sale of a mortgage or deed of trust be made by a licensed realtor and by publicly listing the property for sale on the California Multiple Listing Service with an initial listing price at the property's appraised value. The bill would also make changes to the trustee's authority to reduce the listing price and sell at a public auction. Specifically, this bill would require DFPI to make timely translations of the bill's provisions and make them available without charge on its internet website. The bill is set for a May 3, 2022, hearing. [*S. Jud*]

## LITIGATION

- *The Commissioner of Financial Protection and Innovation v. Wheels Financial Group, LLC (d/b/a LoanMart), CFL License No. 6038193 (DFPI)*. On December 14, 2021, DFPI [announced](#) that it had entered a novel [consent order](#) with Wheels Financial Group, Inc., doing business as LoanMart. The order prohibits the Los Angeles-based company from marketing or servicing automobile title loans of less than \$10,000 with rates exceeding 36% in California for the following twenty-one months. This settlement is a result of a 2020 DFPI [investigation](#) into whether LoanMart was evading California's recently passed Fair Access to Credit Act ([AB 539 \(Limón\) \(Chapter 708, Statutes of 2019\)](#)), which capped interest rates on most loans made by state-licensed lenders at 36%, due to its partnership with an out-of-state bank, Capital Community Bank of Utah. The company ceased marketing the high-interest loans in November 2020 while DFPI's investigation was pending.

- *Commissioner of Department of Financial Protection and Innovation v. Fernished, Inc., (DFPI)*. On January 10, 2022, DFPI finalized a [consent order](#) with Los Angeles-

based rent-to-own furniture supplier Fernished, Inc (Fernish). Pursuant to their investigation, DFPI found that Fernish overcharged late payments fees and did not provide consumer disclosures required under California’s rent-to-own law in violation of the CCFPL. This was DFPI’s first action against a rent-to-own firm violating CCFPL. The consent order compels Fernish to waive the right to additional hearings or appeals and subjects the firm to the oversight authority of DFPI. Commissioner Clothilde V. Hewlett [stated](#) that this first of its kind action, “against a rent-to-own firm reminds California businesses and consumers that the DFPI will be exercising its expanded authority under,” the CCFPL.

- ***Commodities Future Trading Commission, and California Department of Financial Protection and Innovation, et al v. Safeguard Metals LLC and Jeffrey Santulan a/k/a Jeffrey Hill, Case No. 2:22-cv-00691. (CD. Cal. 2022).*** On February 1, 2022, DFPI [announced](#) that it, in partnership with the federal CFTC and 26 other state regulators, has filed a [federal](#) lawsuit in the United States District Court for the Central District of California against Safeguard Metals LLC and its principal and owner, Jeffrey Santulan, for perpetrating a \$68 million fraudulent scheme that targeted the elderly population (see HIGHLIGHTS). At this writing, there has been no further action.

- ***Opportunity Financial LLC v Commissioner of Department of Financial Protection and Innovation, Case No. 22STCV08163 (Super. Ct., Los Angeles County).*** On March 7, 2022, Opportunity Financial LLC (OppFi) filed a [complaint](#) for declaratory and injunctive relief in Los Angeles County Superior Court, asking the court to block DFPI’s enforcement of a 36% interest rate cap against the company’s branded loans and seeking to block DFPI from enforcing California usury laws. The fintech lender argues they are exempt from the maximum rates under CFL, [AB 539 \(Limón\) \(Chapter 708, Statutes of 2019\)](#), as the loans originate

from an out-of-state bank partner, FinWise Bank of Utah. The complaint alleges that DFPI was threatening immediate enforcement action. On April 8, 2022, DFPI filed a [cross-complaint](#) against OppFi for violation of the CFL and CCFPL. The cross-complaint alleges that “OppFi is the true lender of [the Program Loans]” based on the “substance of the transaction” and the “totality of the circumstances,” with the central consideration being “which entity— bank or non-bank— has the predominant economic interest in the transaction.” DFPI seeks to block OppFi from charging the higher rates and make the lender compensate affiliated consumers and pay \$100 million in fines.