
CONSENT

Bill No: AB 2001
Author: Grayson (D), et al.
Amended: 6/9/22 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 7-0, 6/22/22
AYES: Limón, Bradford, Caballero, Dahle, Durazo, Min, Portantino
NO VOTE RECORDED: Ochoa Bogh, Hueso

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern,
Wieckowski, Wiener
NO VOTE RECORDED: Borgreas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: California Financing Law: remote work

SOURCE: Author

DIGEST: This bill authorizes a finance lender, broker, or program administrator licensed pursuant to the California Financing Law to allow employees to work from a remote location if specified criteria are satisfied.

ANALYSIS:

Existing law:

- 1) Provides the California Financing Law (CFL), which requires the licensure and oversight by the Department of Financial Protection and Innovation (DFPI) of businesses that provide secured and unsecured consumer and commercial loans and assessment contracts in the state (Division 9 of the Financial Code, Section 22000 et seq.).

- 2) Defines “licensee”, pursuant to the CFL, as any finance lender, broker, or program administrator who receives a license. (Financial Code Section 22007)
- 3) Prohibits a CFL licensee from conducting the business of making loans or administering a PACE program within any office, room, or place of business in which any other business is solicited or engaged in, except as is authorized in writing by the commissioner, as specified. (Financial Code Section 22154)
- 4) Prohibits a CFL licensee or mortgage loan originator employed by a CFL licensee from transacting business at any other place of business than that named in the license, subject to specified exceptions. (Financial Code Section 22155)

This bill:

- 1) Defines “remote location” as a personal residence or a temporary, nonpublic location, which is not owned or leased by the licensee or an affiliate of the licensee, that is not simultaneously accessible by anyone other than a single employee and individuals who maintain a common household with the employee.
- 2) Authorizes a licensee to designate an employee, when acting within the scope of employment, to perform work on the licensee’s behalf at a remote location if the licensee does all of the following:
 - a) Prohibits in-person consumer interactions at a remote location and does not designate a remote location to the public as a business location.
 - b) Prohibits specified records from being physically mailed or shipped to or stored at a remote location except for storage on an encrypted device or encrypted media.
 - c) Prohibits the physical receipt of mail related to the licensee’s licensed business at a remote location.
 - d) Prohibits a consumer’s personal information from being physically stored at a remote location except for storage on an encrypted device or encrypted media.
 - e) Provides an employee working at a remote location with appropriate equipment to perform work and safeguard licensee records and consumer personal information.
 - f) Adopts and adheres to appropriate, as determined by the department, written policies and procedures to oversee the work of employees, including but not limited to the following elements:

- i) Employee data security training;
- ii) Maintenance of security logs of remote logins;
- iii) Procedures designed to detect suspicious logins or attempted logins and to suspend access by potentially compromised accounts or equipment;
- iv) Data breach response procedures;

g) Records telephone calls with consumers conducted from a remote location to the same extent as telephone calls with consumers conducted from licensed locations.

h) All books, records, and persons which the commissioner is entitled to examine, inspect, or interview will be made available to the commissioner at a licensed location.

Comments

- 1) *Purpose.* According to the author, “On March 21, 2020, the Business, Consumer Services, and Housing Agency and the Department of Financial Protection and Innovation issued emergency guidance allowing the employees of some licensees to work remotely. Since that guidance went into effect, there have been no reported issues from consumers or licensees. Despite this positive experience, the emergency guidance will expire when the COVID-19 state of emergency ends. At a time when many employers, including the State of California, recognize that allowing remote work is vital to attracting and retaining talent, removing this ability for finance lenders will place an unnecessary burden on licensees and their employees.”
- 2) *Remote work guidance during the pandemic.* In response to public health measures requiring non-essential workers to stay at home, the Commissioner of Financial Protection and Innovation issued guidance in March 2020 that permitted employees of various licensed businesses to conduct their business from home, provided that appropriate measures were taken to protect consumers and their data.¹ Because existing law required that a licensee’s business activity take place only at pre-approved licensed locations, this guidance was necessary for licensees to avoid potential enforcement actions for violating the law. Licensees under the CFL continue to rely on this guidance to

¹ <https://mortgage.nationwidelicensingsystem.org/NMLS%20Document%20Library/CA-DBO%20Guidance%20-%20Escrow%20Mortgage%20Student%20Loans%203.21.20%20-%20Coronavirus.pdf>

allow some of their employees to work remotely, but this guidance will expire when the COVID-19 state of emergency ends.

Office workers are demanding the option to work from home, and an employer's inability to offer such options puts that employer at a competitive disadvantage in the labor markets. A recent survey of financial services employees found that 96% would take lower salaries in exchange for the option to work permanently from home, with respondents saying they would take a 37% decrease in salary on average.² In response, many major banks have announced flexible work schedules, shifting to more days from home and hours that adjust to workers' family priorities and reworked office spaces.³ OneMain Financial, a non-bank lenders licensed under the CFL, writes in support of this bill:

In the competition for talent, work from home restrictions on non-bank lenders like OneMain put it at a disadvantage to banks, which have no such restrictions. Extending the successful work from home licensing rules beyond the COVID-19 pandemic will level the playing field and eliminate these disadvantages.

3) *This bill intends to balance the interests of industry and their customers.* This bill codifies the permission to conduct business remotely and the associated requirements related to remote work that are specified under DFPI guidance for CFL licensees. The bill establishes the following requirements designed to protect customers or potential customers of a CFL licensee:

- Prohibits in-person consumer interactions at a remote location.
- Prohibits business records and a consumer's nonpublic personal information from being stored or transferred unless the data are encrypted.
- Requires the licensee to develop and maintain policies and procedures to prevent and monitor for security breaches.

These requirements are intended to mitigate the risk of bad behavior by an employee working remotely and the risk that a consumer's nonpublic personal information is compromised. Licensees remain liable for the actions of their employees that violate the law, ensuring that licensees are incentivized to invest time and resources to maintain compliance with the CFL and other applicable consumer protection laws.

² <https://mms.businesswire.com/media/20220119005226/en/1331791/1/TheFutureofWork-FinServ.pdf?download=1>

³ <https://www.nytimes.com/2022/04/04/business/wall-street-remote-work.html>

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

SUPPORT: (Verified 8/2/22)

California Financial Services Association
OneMain Financial

OPPOSITION: (Verified 8/2/22)

None received

ARGUMENTS IN SUPPORT: The California Financial Services Association, which is comprised of consumer finance lenders licensed by DFPI, writes in support:

AB 2001 would codify DFPI's emergency "work-from-home" guidance which permits employees of [consumer finance lenders] to work from home under prescribed circumstances. For CDSA members, AB 2001 will provide added flexibility to finance lenders who must compete for workers in the emerging remote-work economy...

AB 2001 would also put in place significant safeguards to ensure that consumers and their data and privacy remain protected...These protections help balance the flexibility that employers need to be competitive with the need to protect a customer's privacy and security.

ASSEMBLY FLOOR: 76-0, 5/25/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Michael Burdick / B. & F.I. /
8/3/22 14:31:20

***** END *****