



and would specify the contents of that notice, is pending in the Senate Committee on Governmental Organization.

AB 205 (Floyd), which would specify the contents of notices which license applicants are required to mail to property owners within a 500-foot radius of the premises for which the license is sought, is pending in the Assembly Ways and Means Committee.

AB 261 (Floyd), which would have allowed a holder of an alcoholic beverage wholesaler's license to hold ownership in any on-sale alcoholic license only in counties with a population less than 25,000, died in committee.

AB 1742 (Friedman), which would prohibit the issuance or renewal of any club license to a club, as defined, which makes any discrimination, distinction, or restriction for the purpose of membership against any person on account of the person's color, race, religion, ancestry, national origin, sex, or age, is pending in the Assembly Committee on Governmental Organization.

AB 78 (Hansen), which would have required a fourth drunk driving offense within seven years to be prosecuted as a felony, died in committee.

AB 767 (Eaves), which would have authorized licensed beer manufacturers or holders of out-of-state beer manufacturer's certificates to give away promotion items of nominal value, except for beer or nonalcoholic beverages, under specified conditions, died in committee.

AB 346 (Nielsen), which would have authorized a licensed winegrower to hold, directly or indirectly, the ownership of any interest in an on-sale license under specified conditions, died in committee.

AB 2066 (Killea) would have provided for specified increases in excise taxes on beer, wine, and distilled spirits, and would have designated how that tax revenue would be used. This bill died in committee.

SB 760 (Campbell) would have required all state and local law enforcement agencies to notify ABC of any arrests they make for violations over which ABC has jurisdiction, and would have made it unlawful for any person over 21 years of age to purchase alcohol for a minor. This bill died in committee.

SB 327 (Beverly), which would have authorized any person who holds any other ABC license and who has been in the restaurant business outside California to hold an on-sale general

license, provided specified conditions are met, died in committee.

BANKING DEPARTMENT

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Pursuant to Financial Code section 200 *et seq.*, the State Banking Department (SBD) administers all laws applicable to corporations engaging in the commercial banking or trust business, including the establishment of state banks and trust companies; the establishment, operation, relocation, and discontinuance of various types of offices of these entities; and the establishment, operation, relocation, and discontinuance of various types of offices of foreign banks. The Department is authorized to adopt regulations, which are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The superintendent, the chief officer of the Department, is appointed by and holds office at the pleasure of the Governor. The superintendent approves applications for authority to organize and establish a corporation to engage in the commercial banking or trust business. In acting upon the application, the superintendent must consider:

(1) the character, reputation, and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed bank or trust company;

(2) the need for banking or trust facilities in the proposed community;

(3) the ability of the community to support the proposed bank or trust company, considering the competition offered by existing banks or trust companies; the previous banking history of the community; opportunities for profitable use of bank funds as indicated by the average demand for credit; the number of potential depositors; the volume of bank transactions; and the stability, diversity, and size of the businesses and industries of the community. For trust companies, the opportunities for profitable employment of fiduciary services are also considered;

(4) the character, financial responsibility, banking or trust experience, and business qualifications of the proposed officers; and

(5) the character, financial responsi-

bility, business experience and standing of the proposed stockholders and directors.

The superintendent may not approve any application unless he/she determines that the public convenience and advantage will be promoted by the establishment of the proposed bank or trust company; conditions in the locality of the proposed bank or trust company afford reasonable promise of successful operation; the bank is being formed for legitimate purposes; the proposed name does not so closely resemble as to cause confusion the name of any other bank or trust company transacting or which has previously transacted business in the state; and the applicant has complied with all applicable laws.

If the superintendent finds that the proposed bank or trust company has fulfilled all conditions precedent to commencing business, a certificate of authorization to transact business as a bank or trust company will be issued.

The superintendent must also approve all changes in the location of a head office, the establishment or relocation of branch offices and the establishment or relocation of other places of business. A foreign corporation must obtain a license from the superintendent to engage in the banking or trust business in this state. No one may receive money for transmission to foreign countries or issue travelers checks unless licensed. The superintendent also regulates the safe-deposit business.

The superintendent examines the condition of all licensees. However, as the result of the increasing number of banks and trust companies within the state and the reduced number of examiners following passage of Proposition 13, the superintendent now conducts examinations only when necessary, but at least once every two years. The Department is coordinating its examinations with the FDIC so that every other year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent administers the Small Business Loan Program, designed to provide long-term capital to rapidly growing small businesses whose growth exceeds their ability to generate internal earnings. Under the traditional standards used by banks, these small businesses cannot provide adequate security to qualify for regular bank loans.

The superintendent licenses Business



REGULATORY AGENCY ACTION

and Industrial Development Corporations which provide financial and management assistance to business firms in California.

Acting as Administrator of Local Agency Security, the superintendent oversees all deposits of money belonging to a local governmental agency in any state or national bank or savings and loan association. All such deposits must be secured by the depository.

MAJOR PROJECTS:

Quarterly Report. At the close of business on September 30, 1989, the 269 state-chartered banks of deposit with 1,657 branches had total assets of \$99.4 billion, an increase of \$5.9 billion or 6.2% from September 30, 1988. During this period, there was a net decrease of three banks and an increase of 24 branches. The 269 California state-chartered banks had aggregate earnings of \$821 million for the first nine months of 1989, resulting in a return on assets of 1.1% and a return on equity of 16.7%. The number of unprofitable banks for the period was 19, or 7% of the 269 state-chartered banks.

Fiduciary assets of the 36 trust departments of state-chartered banks, one title insurance company, and 19 non-deposit trust companies totalled \$136 billion. The assets of 103 agencies and branches of foreign banking corporations with 123 offices were \$76.7 billion.

"Extraordinary Situation" Closing. The October 17 earthquake in the San Francisco Bay area forced a number of banks to close some of their offices. By law, they are unable to close unless an "extraordinary situation" exists. The Financial Code covers this situation by authorizing the Superintendent of Banks to issue a proclamation permitting the banks to close. In conjunction with the proclamation, the Superintendent requested that the state banks review their policies and adopt an approach of leniency and forbearance concerning borrowers whose homes and businesses may have suffered damage from the quake, or whose income may have suffered from employment interruption which could impair their ability to meet their obligations. In addition, the Superintendent requested that consideration be given to expediting the granting of loans to help rebuild the homes and businesses of these borrowers, as state banks have done in previous disasters of this type.

Congressional Report on State-Chartered Banks. On October 17, Superintendent Gilleran reported to the U.S. Senate Committee on Banking, Housing, and Urban Affairs on the condition of state-chartered banks in California. The Superintendent attributed part of California's success in avoiding banking problems encountered in other states to the strength and diversity of California's economy. According to the Superintendent, downturns in any one sector of California's economy tend not to affect the overall health of California banks, as in states where the economies are dependent on fewer industries.

The Superintendent reported that California's experience with expanded powers given state-chartered banks has been positive because these powers have been exercised conservatively and are carefully supervised. According to the Superintendent, the SBD has operated under an informal arrangement with the FDIC and Federal Reserve Board to conduct alternate-year examinations of non-problem banks. Other banks are examined by both the state and federal agencies every year, either separately or through a joint examination. During 1988, over 91% of all state-chartered banks were examined by one of the regulatory agencies and, by itself, the SBD examined over 64% of its banks, including all problem banks and statutory year banks. The Superintendent stated that in 1989, despite a reduced presence of the FDIC in California banks, examination coverage will extend to all problem banks and statutory year banks.

Superintendent Gilleran reported that he is optimistic about California banks remaining profitable and in satisfactory condition, and believes the SBD is well prepared to supervise and regulate the banking industry in a manner that will promote public confidence in the health of the industry.

LEGISLATION:

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at pages 89-90:

AB 643 (Calderon) would have required financial institutions to provide handicap access to automated teller machines. This bill died in committee.

AB 1024 (Calderon) would have required the Department to conduct a survey on interstate banking, and report to the legislature by June 30, 1990 on the identities of California financial

institutions which maintain branches in other states, California financial institutions owned by foreign entities, and financial institutions which do not meet the federal definition of "bank" that maintain home offices or branches in California. This bill died in committee.

SB 476 (Robbins) would extend the requirement that banks disclose information regarding consumer bank account charges to include certificate of deposit accounts. This bill is pending in the Assembly Finance and Insurance Committee.

AB 2521 (Johnston and Vuich), the California Bankers Association's bill, would have repealed the entire existing Banking Code and replaced it with 468 new sections of code. This bill died in committee. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 1 and Vol. 9, No. 1 (Winter 1989) pp. 70-71 for additional information on this bill.)

AB 244 (Calderon) would require financial institutions operating automated teller machines outside or away from their premises to comply with certain lighting, landscaping, and location requirements. This bill is pending in the Senate Banking and Commerce Committee.

SB 988 (Beverly) would have expanded the exemption of specified financial institutions from real estate licensure, and from certain provisions prohibiting taking unconscionable advantage of owners of real property in foreclosure, to include bank subsidiaries, bank holding companies and their subsidiaries, and savings banks and their subsidiaries, among other institutions. This bill died in committee.

DEPARTMENT OF CORPORATIONS

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The Department of Corporations is a part of the cabinet-level Business and Transportation Agency and is empowered under section 25600 of the California Code of Corporations. The Commissioner of Corporations, appointed by the Governor, oversees and administers the duties and responsibilities of the Department. The rules promulgated by the Department are set forth in Chapter 3, Title 10 of the California Code of Regulations (CCR).