
**SENATE COMMITTEE ON
BANKING AND FINANCIAL INSTITUTIONS**
Senator Timothy Grayson, Chair
2025 - 2026 Regular

Bill No: SB 825 **Hearing Date:** April 2, 2025
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Urgency: No **Fiscal:** Yes
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Subject: Consumers: financial protection

SUMMARY

This bill clarifies the authority provided to the Department of Financial Protection and Innovation to take enforcement action for an unfair, deceptive, or abusive act or practice conducted by a person acting under the authority of a specified licensing law.

EXISTING FEDERAL LAW

- 1) Provides the Consumer Financial Protection Act (CFPA) which created the Consumer Financial Protection Bureau (CFPB) as an independent agency within the Federal Reserve for the purpose of regulating the offering and provision of consumer financial products or services. (12 U.S.C. Section 5481 et seq.)
- 2) Authorizes the CFPB to take enforcement action to prevent a person from committing or engaging in an unfair, deceptive, or abusive act or practice under federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. (12 U.S.C. Section 5531)
- 3) Authorizes a state regulator to bring a civil action or other appropriate proceeding to enforce the CFPA with respect to any entity that is state-chartered, incorporated, or otherwise authorized to do business under state law, subject to consultation with the CFPB, as specified. (12 U.S.C. 5552)

EXISTING STATE LAW

- 1) Provides the California Consumer Financial Protection Law (CCFPL) which provides the Department of Financial Protection and Innovation (DFPI) broad authority to regulate the provision of consumer financial products and services in this state. (Division 24 of the Financial Code, commencing with Section 90000)
- 2) Prohibits a person covered by the CCFPL from the following:
 - a) Engaging in any unlawful, unfair, deceptive, or abusive act or practice (UDAAP) with respect to consumer financial products or services.
 - b) Offering or providing to a consumer any financial product or service not in conformity with any consumer financial law or otherwise committing any act or omission in violation of a consumer financial law. (Financial Code Section 90003)

- 3) Authorizes DFPI to take enforcement action against a person who engages, has engaged, or proposes to engage in a UDAAP and to seek relief that includes, but is not limited to, refunds, restitution, and monetary penalties. (Financial Code Section 90012)
- 4) Exempts the following categories of persons from the CCFPL:
 - a) Licensees of state agencies other than DFPI to the extent that such entities are acting under the authority of the other state agency's license.
 - b) Specified categories of licensees of DFPI, including, but not limited to, banks, credit unions, residential mortgage lenders, finance lenders, and money transmitters.
 - c) Banks, credit unions, and other financial institutions acting under the authority of a license, certificate, or charter under federal law or the laws of another state. (Financial Code Section 90002)
- 5) Restates the authority provided to DFPI by the federal CFPB and clarifies that nothing in this state law expands upon or limits the authority granted by the CFPB. (Financial Code Section 326)

THIS BILL

Authorizes DFPI to use the authority provided by the CCFPL to enforce the prohibition on UDAAPs with respect to licensees of the department.

COMMENTS

1) *Purpose*

According to the author:

SB 825 seeks to provide clear enforcement authority to the California Department of Financial Protection and Innovation, in order to protect California consumers and begin to fill the gap in oversight that has been created by the loss of the federal Consumer Financial Protection Bureau. SB 825 also seeks to provide consumers with a better opportunity to obtain financial compensation should DFPI find that illegal or unfair business practices have taken place.

2) *Background*

In the waning year of the first Trump administration, California enacted AB 1864 (Limón, Chapter 157, Statutes of 2020) in conjunction with a budget appropriation to upgrade the state's efforts to oversee markets for financial services and products. From 2017 through 2020, the federal government substantially curtailed its consumer protection efforts, particularly within the Consumer Financial Protection Bureau (CFPB). An Assembly analysis of SB 819, a companion bill to AB 1864, characterized the change in federal activities:

Under the Trump administration, CFPB has retreated from its duties. Enforcement actions are down 75% according to a Washington Post analysis of bureau data, despite consumer complaints rising to new highs. When enforcement cases are

pursued, CFPB has significantly decreased fines and penalties against guilty parties. The Bureau also rolled back important regulations that required payday lenders to verify a borrower's ability to repay a loan, eliminated authority for discrimination cases, and ceased examining lenders for compliance with the Military Lending Act.¹

Fast forward to 2025, and the recent actions of the Trump administration make the previous one's look almost benign in comparison. Within three weeks of the inauguration, the administration shut down the CFPB headquarters, barred employees from the office, and prohibited employees from doing any work. The acting director fired all probationary and term-limited employees and apparently only a temporary injunction from a U.S. District Court judge prevented a mass layoff of nearly 1,200 employees across the bureau.² In the lawsuit filed by the CFPB employee union, the court recently required the acting director to reinstate the probationary and term employees who were fired and struck down the stop-work order.³ While the courts may be able to delay or even prevent an effective shutdown of all the CFPB's work, the administration has demonstrated its intent to intensify its assault on the bureau's Congressionally-mandated mission to protect consumers. The long-term effects cannot yet be known, but there is concern that the hollowing out of the CFPB's capacity will harm consumers far beyond the end of 2028.

3) *CFPB enforcement efforts under attack*

The CFPB has returned nearly \$21 billion to consumers as a result of enforcement actions over the last thirteen years, but the current administration appears poised to wind enforcement activities down. In spite of the supposed stop-work order, the CFPB has filed to dismiss at least ten active enforcement cases against a variety of financial services providers, including nonbank lenders, student loan servicers, and banks. The rollback of enforcement effort does not stop with open cases, but even extends to cases already settled. Last week, the CFPB sought to undo a court-approved settlement against a mortgage lender for racial discrimination and redlining claims stemming from comments made on the lender's radio show and podcast describing Chicago's South Side as a "jungle" and a "war zone" that became a "hoodlum" hive on weekends.⁴

Efforts underway to undermine the CFPB's enforcement capacity harm consumers today and may have consequences that stretch beyond the current administration. In a deposition related to the lawsuit filed against the acting director of the CFPB by the employees' union, the former Enforcement Director of the CFPB during the Biden administration, Eric Halperin, details these consequences and risks.⁵ Discussing the threat of mass layoffs and the stop-work order, Halperin asserts:

The dismantling of the CFPB's enforcement function thus means that there is a large gaping hole in the legal regime mandated by Congress. The federal government's capacity to enforce more than a dozen Federal consumer financial

¹ See bill analysis of the Assembly Banking and Finance Committee dated August 29, 2020, located here: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB819#

² <https://thehill.com/regulation/court-battles/5189503-cfpb-employees-testify-layoffs/>

³ <https://www.cnbc.com/2025/03/28/judge-orders-cfpb-to-reinstate-fired-employees-preserve-records-and-get-back-to-work.html>

⁴ <https://www.nytimes.com/2025/03/26/business/cfpb-repay-mortgage-lawsuit.html>

⁵ <https://storage.courtlistener.com/recap/gov.uscourts.dcd.277287/gov.uscourts.dcd.277287.38.12.pdf>

protection laws against both banks and non-banks will be completely eviscerated—**leaving regulatory oversight of the financial sector even weaker than it was before the financial crisis** [emphasis added]...

The CFPB’s capacity to enforce the Federal consumer financial laws cannot be recreated or rebuilt quickly. Even if staff were ultimately rehired much of the capacity and expertise would be lost permanently. When there is no enforcement of the law, there will be no recourse or remedies for consumers that are injured and there will be less incentive for companies to comply with the law, harming law-abiding companies and consumers...

Stopping all work tasks would likely stop payment of redress to consumers in some cases where entities have been ordered to make payments to consumers since Enforcement staff must review redress plans submitted by the entity and those plans must be approved by the Enforcement Director.

Halperin also proclaims that the CFPB’s dismissal, with prejudice, of active litigations without relief to consumers is unprecedented in the bureau’s history, not even occurring once during the previous Trump administration. The CFPB complaints in these dismissed cases alleged that consumers experienced billions of dollars of harm, for which the bureau will no longer pursue remedy.

4) *How California can independently protect its consumers*

The federal government’s antipathy towards consumer protection is a call for California to step up its efforts. Undoubtedly, the state cannot fully fill the gap left by a hollowed-out CFPB due to both narrower legal authorities and a significantly more constrained budget. But the state has the opportunity to marginally improve its legal authority and independence, which is the objective of this bill.

Under current state law, the Department of Financial Protection and Innovation (DFPI) has varying enforcement authorities across different licensing frameworks. Similar violations that cause similar harms to consumers may be enforced differently, or not all, depending on the person who committed the violation. Differences in enforcement include the scope of actions that can be deemed a violation of the licensing law, procedural requirements in bringing an action, and the remedies that can be sought in an enforcement action.

In 2020, the enactment of AB 1864 provided a more comprehensive authority for DFPI to enforce state and federal consumer financial protection laws and bring actions for unfair, deceptive, and abusive acts and practices. However, the procedural requirements of bringing such an action differ based on the licensing status of the person who allegedly violated the law. For a person that is not licensed by certain specified laws, DFPI can bring an action without reliance upon federal law or coordination with the CFPB. For a person that is licensed by certain specified laws, state law provides no additional authority beyond that delegated by the federal Consumer Financial Protection Act (CFPA).⁶ When seeking to exercise its authority under the CFPA, the law requires a state regulator to consult with CFPB in relation to an enforcement action and allow the CFPB to intervene in the action. There is

⁶ The categories of persons for whom this latter process applies include state banks, state credit unions, money transmitters, escrow agents, nonbank installment and mortgage lenders and brokers, and PACE program administrators, along with several others.

also uncertainty related to the specific types of enforcement acts a state regulator may take pursuant to authority delegated by the CFPB, particularly whether certain administrative enforcement actions would be considered “appropriate proceedings” under the law.

California need not shackle its consumer protection efforts by relying on federal law when clear authority can be provided in state law. By relying on federal law, California cedes its sovereignty and invites a hostile CFPB to intervene in an action, potentially moving the case to a more favorable forum in a federal district court likely to favor corporate interests over those of consumers. The very threat of this outcome could cast a chilling effect over the state’s enforcement strategies and priorities, leaving consumers less protected than they would be if the state stood more independent from an antagonistic federal administration.

5) *Arguments in Support*

The Consumer Federation of California and California Low-Income Consumer Coalition, as co-sponsors, and the National Consumer Law Center write:

In 2008, Americans faced the worst economic downturn since the Great Depression. Over 3.8 million Americans lost their homes and 8.7 million Americans lost their jobs. The Great Recession, caused in part by a deregulation of the financial marketplace and predatory practices, inspired not only the enactment of federal law (Dodd-Frank) but the creation of the federal Consumer Financial Protection Bureau (CFPB)...

With recent changes to the CFPB, California consumers will be left with fewer protections against bad actors. Since the passage of AB 1864 (Limón) in 2020, which created the California Consumer Financial Protection Law (CCFPL), DFPI has investigated predatory businesses, overseen and registered financial service providers, and offered public outreach and education to millions of Californians. California has the opportunity to strengthen state laws that hold financial institutions accountable and provide remedies for consumers harmed by unfair, deceptive, and abusive acts or practices.

6) *Arguments in Opposition*

The California Mortgage Bankers Association writes in opposition:

[T]he CCFPL was not intended to add redundant investigations of existing licensees outside of their respective licensing laws, where the Department already has clear jurisdiction to regulate any person acting under the authority of their license, certificate, or charter, up to and including suspension or revocation of license. And, under existing law, the DFPI can partner with the Attorney General to prosecute egregious UDAAP cases against bad actors under California’s unfair business practices statutes.

7) *Double Referral*

This bill is double referred to the Senate Judiciary Committee.

LIST OF REGISTERED SUPPORT/OPPOSITION

Support

Consumer Federation of California (co-sponsor)
California Low-Income Consumer Coalition (co-sponsor)
National Consumer Law Center

Opposition

California Mortgage Bankers Association

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