



State of California
Business, Consumer Services, and Housing Agency
DEPARTMENT OF BUSINESS OVERSIGHT
Ensuring a Fair and Secure Financial Services Marketplace for all Californians

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Edmund G. Brown Jr.
Governor

Jan Lynn Owen
Commissioner of Business Oversight

DATE: October 15, 2018

RELEASE No. 01-FI

Interpretation of Financial Code Section 1322 - Real Estate Investments

The Commissioner of Business Oversight (Commissioner) has been asked whether Financial Code section 1322 requires a California state-chartered bank to obtain approval from the Commissioner before purchasing a passive equity investment in an affordable housing tax credit project.

Section 1322 requires a bank to apply for approval from the Commissioner before engaging in the real estate investments authorized by that section. The term "real property investment" is expressly defined by section 1322, subdivision (b), to mean all forms of investing in real estate.

A passive equity investment in an affordable housing tax credit project meets the definition of "real property investment." Investments in such projects provide for the acquisition, rehabilitation, or construction of rental housing for lower-income households.

Prior to initially engaging in real property investment activities authorized by section 1322, such as purchasing a passive investment in an affordable housing tax credit project, a bank must obtain approval from the Commissioner of its general plan of real estate investments in accordance with section 1322, subdivision (e).