

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1980**

---

---

**Introduced by Assembly Member Roger Hernández**

February 23, 2012

---

---

An act relating to deferred deposit transactions to amend, repeal, and add Sections 22325, 23019, 23027, and 23035 of, to add and repeal Section 22162.5 of, to add and repeal Article 7 (commencing with Section 22475) of Chapter 2 of Division 9 of, and to add and repeal Article 4 (commencing with Section 23028) of Chapter 1 of Division 10 of, the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1980, as amended, Roger Hernández. ~~Deferred deposit transactions.~~ Loans: disclosures: financial facts label.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Department of Corporations. Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation of lenders who make deferred deposit transactions in an amount equal to or less than \$300, as specified. A willful violation of these provisions is a crime.

This bill would require those licensees to, on and after January 1, 2014, and until January 1, 2018, include a financial facts label with any deferred deposit transaction or an unsecured consumer loan in a principal amount that is equal to or less than \$2,500, as specified. The bill would further require the financial facts label to be placed on specified advertising. Because a willful violation of these provisions

would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the California Deferred Deposit Transaction Law, prohibits a person from offering, originating, or making a deferred deposit transaction without first obtaining a license from the Commissioner of Corporations. Existing law authorizes a licensee to defer the deposit of a customer's personal check for up to 31 days and prohibits a fee for a deferred deposit transaction from exceeding 15% of the face amount of the check. Existing law makes a willful violation of these provisions a crime.~~

~~This bill would state the intent of the Legislature to enact legislation that would further regulate the making of deferred deposit transactions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
 2 Financial Facts Label Act of 2012.  
 3 SEC. 2. The Legislature finds and declares all of the following:  
 4 (a) Over the past two decades, American consumer  
 5 debt-to-income ratios grew by 69 percent, up from .89 in 1983 to  
 6 1.49 in 2007. While the debt levels rose for every income group,  
 7 low-income families experienced the sharpest increase. The  
 8 Federal Reserve Board's Survey of Consumer Finances reveal  
 9 that for families in the bottom income quintile, those making below  
 10 \$21,000, the debt-to-income ratio almost tripled over the past two  
 11 decades. In 1983, low-income families owed 88 cents for every  
 12 dollar that they earned. By 2007, low-income families owed \$2.59  
 13 for every dollar earned. The heavy debt burden is weighing on  
 14 low-income families. In 2009, the Federal Reserve Board's Survey  
 15 of Consumer Finances reported that while almost all income  
 16 groups showed a decrease in debt from 2007, families in the bottom

1 *quintile bucked the trend – they were the only income group that*  
2 *saw an increase in median debt by 8.9 percent.*

3 *(b) The federal Food and Drug Administration nutritional facts*  
4 *label has helped millions of Americans make more informed,*  
5 *healthier food choices by providing a consistent snapshot of*  
6 *nutritional value. A similar financial facts label would help*  
7 *low-income and working poor Californians make more informed,*  
8 *healthier financial choices. By providing potential payday*  
9 *borrowers and other borrowers of small loans with a*  
10 *consumer-friendly, recognizable, and consistent label with facts*  
11 *on the overall quality and affordability of a loan, the state can*  
12 *empower consumers to make better financial choices and avoid*  
13 *the treadmill of debt currently caused by payday loans and other*  
14 *small loans.*

15 *(c) A 2010 study from the University of Chicago found that*  
16 *providing consumers with complete information about fees and*  
17 *costs has a positive impact on financial decisions. Researchers*  
18 *found that disclosing the quality and affordability of payday loans*  
19 *reduces the frequency and amount of payday lending. Armed with*  
20 *information, consumers are 11 percent less likely to take out a*  
21 *payday loan.*

22 *(d) In 2011, the Mission Asset Fund conducted an experiment*  
23 *to test the effectiveness of using financial facts labels against actual*  
24 *loan documents. The pilot test presented participants with copies*  
25 *of actual loan documents to determine the loan’s monthly payment*  
26 *amount. After writing the answer, the researchers then presented*  
27 *the financial facts label for the same loan and were asked the same*  
28 *question. Researchers recorded the time it took to derive each*  
29 *answer. Researchers did not communicate that the loan document*  
30 *and financial facts labels were for the same loan. The results: only*  
31 *23 percent of participants correctly determined the monthly*  
32 *payment amount from the original loan documents. By contrast,*  
33 *80 percent of participants correctly determined the monthly*  
34 *payment from the financial facts label. Participants were also far*  
35 *faster at determining the answer from looking at the financial facts*  
36 *label; on average they took 16 seconds versus 90 seconds with the*  
37 *loan documents.*

38 *(e) A financial facts label can empower low-income and working*  
39 *poor Californians with clear and transparent information that*

1 would save them over \$330 million per year in fees from high-cost  
2 loans.

3 (f) The benefits of empowering consumers with clear and  
4 transparent information about loans are undeniable.

5 SEC. 3. Section 22162.5 is added to the Financial Code, to  
6 read:

7 22162.5. (a) On and after January 1, 2014, no advertisement  
8 may be used that does not comply with Section 22325.

9 (b) This section shall remain in effect only until January 1, 2018,  
10 and as of that date is repealed, unless a later enacted statute, that  
11 is enacted before January 1, 2018, deletes or extends that date.

12 SEC. 4. Section 22325 of the Financial Code is amended to  
13 read:

14 22325. (a) Every licensee shall display prominently in each  
15 licensed place of business a full and accurate schedule of the  
16 charges to be made and the method of computing the charges. The  
17 schedule is subject to the approval of the commissioner.

18 (b) In addition to the requirements of subdivision (a), on and  
19 after January 1, 2014, every licensee shall display on every window  
20 advertisement, online advertisement, mailer, flier, brochure, or  
21 pamphlet, a sample financial facts label, as described in Section  
22 22475, the information in which shall be calculated and based  
23 upon a one-thousand-dollar (\$1,000) loan amount, for purposes  
24 of informing potential borrowers of the costs related to borrowing  
25 a loan in that amount.

26 (c) This section shall remain in effect only until January 1, 2018,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2018, deletes or extends that date.

29 SEC. 5. Section 22325 is added to the Financial Code, to read:

30 22325. (a) Every licensee shall display prominently in each  
31 licensed place of business a full and accurate schedule of the  
32 charges to be made and the method of computing the charges. The  
33 schedule is subject to the approval of the commissioner.

34 (b) This section shall become operative on January 1, 2018.

35 SEC. 6. Article 7 (commencing with Section 22475) is added  
36 to Chapter 2 of Division 9 of the Financial Code, to read:

Article 7. Financial Facts Label

22475. (a) On and after January 1, 2014, a licensee shall provide to every consumer who applies for a loan from that licensee a financial facts label prior to consummation of the loan. The financial facts label shall contain all of the following information:

(1) The amount and the number of payments for the loan.

(2) An average amount per payment to illustrate how monthly payments are allocated between principal, fees, and interest.

(3) A “Percent of Monthly Debt Budget” caption to inform the consumer of how loan payments will affect his or her debt budget and cashflow pursuant to paragraph (4). This caption shall use the following formula and contain the following disclosure at the end of the label by footnote: “Percent of Monthly Debt Budget value is based on the loan payment divided by the recommended consumer debt-to-income ratio of 15 percent, using a \$3,000 after-tax monthly income level. Debt budget will vary according to your income level.”

(4) Under the caption described in paragraph (3), the percentage of the monthly debt budget expected to be used on the loan payment.

(5) A breakdown of the monthly payment indicating how much will be paid towards the principal, loan fees, and interest.

(6) The annual percentage rate (APR): the annualized total cost of the loan that includes interest and total fees.

(7) The interest rate used to calculate the loan payments.

(8) Total monthly fees to be paid on the loan.

(9) Total monthly interest to be paid on the loan.

(10) Total monthly payment.

(11) Late payment amount.

(b) The department shall, by January 1, 2014, adopt regulations to implement this article and shall set forth the design of the financial facts label, in conformity with subdivisions (a) and (b) and Section 23028. The design of the label shall be based upon the design of the federal Food and Drug Administration’s nutritional facts label.

(c) This section shall only apply to an unsecured consumer loan in a principal amount that is equal to or less than two thousand five hundred dollars (\$2,500).

1 22477. *This article shall remain in effect only until January 1,*  
2 *2018, and as of that date is repealed, unless a later enacted statute,*  
3 *that is enacted before January 1, 2018, deletes or extends that*  
4 *date.*

5 *SEC. 7. Section 23019 of the Financial Code is amended to*  
6 *read:*

7 23019. (a) Every licensee shall post a complete, detailed, and  
8 unambiguous schedule of fees. The information required by this  
9 section shall be clear, legible, and in letters not less than one-half  
10 inch in height. The information shall be posted in a conspicuous  
11 location in the unobstructed view of the public within the licensee’s  
12 location.

13 (b) *In addition to the requirements of subdivision (a), on and*  
14 *after January 1, 2014, every licensee shall display on every window*  
15 *advertisement, online advertisement, mailer, flier, brochure, or*  
16 *pamphlet, a sample financial facts label, as described in Section*  
17 *23028, the information in which shall be calculated and based*  
18 *upon a three-hundred-dollar (\$300) loan, for purposes of informing*  
19 *potential borrowers of the costs related to borrowing a loan in*  
20 *that amount.*

21 (c) *This section shall remain in effect only until January 1, 2018,*  
22 *and as of that date is repealed, unless a later enacted statute, that*  
23 *is enacted before January 1, 2018, deletes or extends that date.*

24 *SEC. 8. Section 23019 is added to the Financial Code, to read:*

25 23019. (a) Every licensee shall post a complete, detailed, and  
26 unambiguous schedule of fees. The information required by this  
27 section shall be clear, legible, and in letters not less than one-half  
28 inch in height. The information shall be posted in a conspicuous  
29 location in the unobstructed view of the public within the licensee’s  
30 location.

31 (b) *This section shall become operative on January 1, 2018.*

32 *SEC. 9. Section 23027 of the Financial Code is amended to*  
33 *read:*

34 23027. (a) No licensee shall advertise, print, display, publish,  
35 distribute, or broadcast, or cause or permit to be advertised, printed,  
36 displayed, published, distributed, or broadcast, in any manner, any  
37 statement or representation with regard to the business subject to  
38 the provisions of this division, including the rates, terms, or  
39 conditions for making or negotiating deferred deposit transactions,  
40 that is false, misleading, or deceptive, or that omits material

1 information that is necessary to make the statements not false,  
2 misleading, or deceptive.

3 (b) No licensee shall place an advertisement disseminated  
4 primarily in this state for a deferred deposit transaction unless the  
5 licensee discloses in the printed text of the advertisement, or the  
6 oral text in the case of a radio or television advertisement, that the  
7 licensee is licensed by the department pursuant to this division.

8 (c) The commissioner may require that rates of charges or fees,  
9 if stated by the licensee, be stated fully and clearly in the manner  
10 that the commissioner deems necessary to give adequate  
11 information to, or to prevent misunderstanding by, prospective  
12 customers.

13 (d) No advertising copy shall be used after its use has been  
14 disapproved by the commissioner and the licensee is notified in  
15 writing of the disapproval.

16 (e) *On and after January 1, 2014, no advertisement may be used*  
17 *that does not comply with Section 23019.*

18 ~~(e)~~

19 (f) The commissioner may require licensees to maintain a file  
20 of all advertising copy for a period of 90 days from the date of its  
21 use. The file shall be available to the commissioner upon request.

22 (g) *This section shall remain in effect only until January 1, 2018,*  
23 *and as of that date is repealed, unless a later enacted statute, that*  
24 *is enacted before January 1, 2018, deletes or extends that date.*

25 *SEC. 10. Section 23027 is added to the Financial Code, to*  
26 *read:*

27 *23027. (a) No licensee shall advertise, print, display, publish,*  
28 *distribute, or broadcast, or cause or permit to be advertised,*  
29 *printed, displayed, published, distributed, or broadcast, in any*  
30 *manner, any statement or representation with regard to the*  
31 *business subject to the provisions of this division, including the*  
32 *rates, terms, or conditions for making or negotiating deferred*  
33 *deposit transactions, that is false, misleading, or deceptive, or that*  
34 *omits material information that is necessary to make the statements*  
35 *not false, misleading, or deceptive.*

36 (b) *No licensee shall place an advertisement disseminated*  
37 *primarily in this state for a deferred deposit transaction unless*  
38 *the licensee discloses in the printed text of the advertisement, or*  
39 *the oral text in the case of a radio or television advertisement, that*  
40 *the licensee is licensed by the department pursuant to this division.*

1 (c) *The commissioner may require that rates of charges or fees,*  
2 *if stated by the licensee, be stated fully and clearly in the manner*  
3 *that the commissioner deems necessary to give adequate*  
4 *information to, or to prevent misunderstanding by, prospective*  
5 *customers.*

6 (d) *No advertising copy shall be used after its use has been*  
7 *disapproved by the commissioner and the licensee is notified in*  
8 *writing of the disapproval.*

9 (e) *The commissioner may require licensees to maintain a file*  
10 *of all advertising copy for a period of 90 days from the date of its*  
11 *use. The file shall be available to the commissioner upon request.*

12 (f) *This section shall become operative on January 1, 2018.*

13 SEC. 11. *Article 4 (commencing with Section 23028) is added*  
14 *to Chapter 1 of Division 10 of the Financial Code, to read:*

15

16 *Article 4. Financial Facts Label*

17

18 23028. (a) *On and after January 1, 2014, a licensee shall*  
19 *provide to every consumer who applies for a loan from that*  
20 *licensee a financial facts label prior to consummation of the loan.*  
21 *The financial facts label shall contain all of the following*  
22 *information:*

23 (1) *The amount and the number of payments for the loan.*

24 (2) *An average amount per payment to illustrate how monthly*  
25 *payments are allocated between principal, fees, and interest.*

26 (3) *A “Percent of Monthly Debt Budget” caption to inform the*  
27 *consumer of how loan payments will affect his or her debt budget*  
28 *and cashflow pursuant to paragraph (4). This caption shall use*  
29 *the following formula and contain the following disclosure at the*  
30 *end of the label by footnote: “Percent of Monthly Debt Budget*  
31 *value is based on the loan payment divided by the recommended*  
32 *consumer debt-to-income ratio of 15 percent, using a \$3,000*  
33 *after-tax monthly income level. Debt budget will vary according*  
34 *to your income level.”*

35 (4) *Under the caption described in paragraph (3), the*  
36 *percentage of the monthly debt budget expected to be used on the*  
37 *loan payment.*

38 (5) *A breakdown of the monthly payment indicating how much*  
39 *will be paid towards the principal, loan fees, and interest.*

1 (6) *The annual percentage rate (APR): the annualized total cost*  
2 *of the loan that includes interest and total fees.*

3 (7) *The interest rate used to calculate the loan payments.*

4 (8) *Total monthly fees to be paid on the loan.*

5 (9) *Total monthly interest to be paid on the loan.*

6 (10) *Total monthly payment.*

7 (11) *Late payment amount.*

8 (b) *The department shall, by January 1, 2014, adopt regulations*  
9 *to implement this article and shall set forth the design of the*  
10 *financial facts label, in conformity with subdivisions (a) and (b)*  
11 *and Section 22475. The design of the label shall be based upon*  
12 *the design of the federal Food and Drug Administration's*  
13 *nutritional facts label.*

14 23029. *This article shall remain in effect only until January 1,*  
15 *2018, and as of that date is repealed, unless a later enacted statute,*  
16 *that is enacted before January 1, 2018, deletes or extends that*  
17 *date.*

18 SEC. 12. *Section 23035 of the Financial Code is amended to*  
19 *read:*

20 23035. (a) A licensee may defer the deposit of a customer's  
21 personal check for up to 31 days, pursuant to the provisions of this  
22 section. The face amount of the check shall not exceed three  
23 hundred dollars (\$300). Each deferred deposit transaction shall be  
24 made pursuant to a written agreement as described in subdivision  
25 (e) that has been signed by the customer and by the licensee or an  
26 authorized representative of the licensee.

27 (b) A customer who enters into a deferred deposit transaction  
28 and offers a personal check to a licensee pursuant to an agreement  
29 shall not be subject to any criminal penalty for the failure to comply  
30 with the terms of that agreement.

31 (c) Before entering into a deferred deposit transaction, licensees  
32 shall distribute to customers a notice that shall include, but not be  
33 limited to, the following:

34 (1) Information about charges for deferred deposit transactions.

35 (2) That if the customer's check is returned unpaid, the customer  
36 may be charged an additional fee of up to fifteen dollars (\$15).

37 (3) That the customer cannot be prosecuted in a criminal action  
38 in conjunction with a deferred deposit transaction for a returned  
39 check or be threatened with prosecution.

1 (4) The department’s toll-free telephone number for receiving  
2 calls regarding customer complaints and concerns.

3 (5) That the licensee may not accept any collateral in conjunction  
4 with a deferred deposit transaction.

5 (6) That the check is being negotiated as part of a deferred  
6 deposit transaction made pursuant to ~~Section 23035 of the Financial~~  
7 ~~Code~~ *this section* and is not subject to the provisions of Section  
8 1719 of the Civil Code. No customer may be required to pay treble  
9 damages if this check does not clear.

10 (d) The following notices shall be clearly and conspicuously  
11 posted in the unobstructed view of the public by all licensees in  
12 each location of a business providing deferred deposit transactions  
13 in letters not less than one-half inch in height:

14 (1) The licensee cannot use the criminal process against a  
15 consumer to collect any deferred deposit transaction.

16 (2) The schedule of all charges and fees to be charged on those  
17 deferred deposit transactions with an example of all charges and  
18 fees that would be charged on at least a one-hundred-dollar (\$100)  
19 and a two-hundred-dollar (\$200) deferred deposit transaction,  
20 payable in 14 days and 30 days, respectively, giving the  
21 corresponding annual percentage rate. The information may be  
22 provided in a chart as follows:

23

24	Amount	Fee	Amount of Check	14-day APR	30-day APR
25	Provided				
26	\$100	XX	XXX	XXX	XXX
27	\$200	XX	XXX	XXX	XXX

28  
29 (e) An agreement to enter into a deferred deposit transaction  
30 shall be in writing and shall be provided by the licensee to the  
31 customer. The written agreement shall authorize the licensee to  
32 defer deposit of the personal check, shall be signed by the  
33 customer, and shall include all of the following:

34 (1) A full disclosure of the total amount of any fees charged for  
35 the deferred deposit transaction, expressed both in United States  
36 currency and as an APR as required under the Federal Truth In  
37 Lending Act and its regulations.

38 (2) A clear description of the customer’s payment obligations  
39 as required under the ~~Federal~~ *federal* Truth In Lending Act and its  
40 regulations.

- 1 (3) The name, address, and telephone number of the licensee.
- 2 (4) The customer's name and address.
- 3 (5) The date to which deposit of check has been deferred (due
- 4 date).
- 5 (6) The payment plan, or extension, if applicable as allowed
- 6 under subdivision (c) of Section 23036.
- 7 (7) An itemization of the amount financed as required under
- 8 the ~~Federal~~ *federal* Truth In Lending Act and its regulations.
- 9 (8) Disclosure of any returned check charges.
- 10 (9) That the customer cannot be prosecuted or threatened with
- 11 prosecution to collect.
- 12 (10) That the licensee cannot accept collateral in connection
- 13 with the transaction.
- 14 (11) That the licensee cannot make a deferred deposit transaction
- 15 contingent on the purchase of another product or service.
- 16 (12) Signature space for the customer and signature of the
- 17 licensee or authorized representative of the licensee and date of
- 18 the transaction.
- 19 (13) Any other information that the commissioner shall deem
- 20 necessary by regulation.
- 21 (f) The notice required by subdivision (c) shall be written and
- 22 available in the same language principally used in any oral
- 23 discussions or negotiations leading to execution of the deferred
- 24 deposit agreement and shall be in at least 10-point type.
- 25 (g) The written agreement required by subdivision (e) shall be
- 26 written in the same language principally used in any oral
- 27 discussions or negotiations leading to execution of the deferred
- 28 deposit agreement, shall not be vague, unclear, or misleading, and
- 29 shall be in at least 10-point type.
- 30 (h) Under no circumstances shall a deferred deposit transaction
- 31 agreement include any of the following:
- 32 (1) A hold harmless clause.
- 33 (2) A confession of judgment clause or power of attorney.
- 34 (3) Any assignment of or order for payment of wages or other
- 35 compensation for services.
- 36 (4) Any acceleration provision.
- 37 (5) Any unconscionable provision.
- 38 (i) If the licensee sells or otherwise transfers the debt at a later
- 39 date, the licensee shall clearly disclose in a written agreement that
- 40 any debt or checks held or transferred pursuant to a deferred deposit

1 transaction made pursuant to ~~Section 23035~~ *this section* are not  
 2 subject to the provisions of Section 1719 of the Civil Code and  
 3 that no customer may be required to pay treble damages if the  
 4 check or checks are dishonored.

5 (j) *In addition to the separate disclosure requirements under*  
 6 *this section, a licensee shall comply with the requirements under*  
 7 *Section 23028, if applicable to that licensee.*

8 (k) *This section shall remain in effect only until January 1, 2018,*  
 9 *and as of that date is repealed, unless a later enacted statute, that*  
 10 *is enacted before January 1, 2018, deletes or extends that date.*

11 SEC. 13. *Section 23035 is added to the Financial Code, to*  
 12 *read:*

13 23035. (a) *A licensee may defer the deposit of a customer's*  
 14 *personal check for up to 31 days, pursuant to the provisions of*  
 15 *this section. The face amount of the check shall not exceed three*  
 16 *hundred dollars (\$300). Each deferred deposit transaction shall*  
 17 *be made pursuant to a written agreement as described in*  
 18 *subdivision (e) that has been signed by the customer and by the*  
 19 *licensee or an authorized representative of the licensee.*

20 (b) *A customer who enters into a deferred deposit transaction*  
 21 *and offers a personal check to a licensee pursuant to an agreement*  
 22 *shall not be subject to any criminal penalty for the failure to comply*  
 23 *with the terms of that agreement.*

24 (c) *Before entering into a deferred deposit transaction, licensees*  
 25 *shall distribute to customers a notice that shall include, but not*  
 26 *be limited to, the following:*

27 (1) *Information about charges for deferred deposit transactions.*

28 (2) *That if the customer's check is returned unpaid, the customer*  
 29 *may be charged an additional fee of up to fifteen dollars (\$15).*

30 (3) *That the customer cannot be prosecuted in a criminal action*  
 31 *in conjunction with a deferred deposit transaction for a returned*  
 32 *check or be threatened with prosecution.*

33 (4) *The department's toll-free telephone number for receiving*  
 34 *calls regarding customer complaints and concerns.*

35 (5) *That the licensee may not accept any collateral in*  
 36 *conjunction with a deferred deposit transaction.*

37 (6) *That the check is being negotiated as part of a deferred*  
 38 *deposit transaction made pursuant to this section and is not subject*  
 39 *to the provisions of Section 1719 of the Civil Code. No customer*  
 40 *may be required to pay treble damages if this check does not clear.*

1 (d) The following notices shall be clearly and conspicuously  
2 posted in the unobstructed view of the public by all licensees in  
3 each location of a business providing deferred deposit transactions  
4 in letters not less than one-half inch in height:

5 (1) The licensee cannot use the criminal process against a  
6 consumer to collect any deferred deposit transaction.

7 (2) The schedule of all charges and fees to be charged on those  
8 deferred deposit transactions with an example of all charges and  
9 fees that would be charged on at least a one-hundred-dollar (\$100)  
10 and a two-hundred-dollar (\$200) deferred deposit transaction,  
11 payable in 14 days and 30 days, respectively, giving the  
12 corresponding annual percentage rate. The information may be  
13 provided in a chart as follows:

14	Amount	Fee	Amount of Check	14-day APR	30-day APR
15	Provided				
16	\$100	XX	XXX	XXX	XXX
17	\$200	XX	XXX	XXX	XXX
18					
19					

20 (e) An agreement to enter into a deferred deposit transaction  
21 shall be in writing and shall be provided by the licensee to the  
22 customer. The written agreement shall authorize the licensee to  
23 defer deposit of the personal check, shall be signed by the  
24 customer, and shall include all of the following:

25 (1) A full disclosure of the total amount of any fees charged for  
26 the deferred deposit transaction, expressed both in United States  
27 currency and as an APR as required under the federal Truth In  
28 Lending Act and its regulations.

29 (2) A clear description of the customer's payment obligations  
30 as required under the federal Truth In Lending Act and its  
31 regulations.

32 (3) The name, address, and telephone number of the licensee.

33 (4) The customer's name and address.

34 (5) The date to which deposit of check has been deferred (due  
35 date).

36 (6) The payment plan, or extension, if applicable as allowed  
37 under subdivision (c) of Section 23036.

38 (7) An itemization of the amount financed as required under  
39 the federal Truth In Lending Act and its regulations.

40 (8) Disclosure of any returned check charges.

1 (9) That the customer cannot be prosecuted or threatened with  
2 prosecution to collect.

3 (10) That the licensee cannot accept collateral in connection  
4 with the transaction.

5 (11) That the licensee cannot make a deferred deposit  
6 transaction contingent on the purchase of another product or  
7 service.

8 (12) Signature space for the customer and signature of the  
9 licensee or authorized representative of the licensee and date of  
10 the transaction.

11 (13) Any other information that the commissioner shall deem  
12 necessary by regulation.

13 (f) The notice required by subdivision (c) shall be written and  
14 available in the same language principally used in any oral  
15 discussions or negotiations leading to execution of the deferred  
16 deposit agreement and shall be in at least 10-point type.

17 (g) The written agreement required by subdivision (e) shall be  
18 written in the same language principally used in any oral  
19 discussions or negotiations leading to execution of the deferred  
20 deposit agreement, shall not be vague, unclear, or misleading, and  
21 shall be in at least 10-point type.

22 (h) Under no circumstances shall a deferred deposit transaction  
23 agreement include any of the following:

24 (1) A hold harmless clause.

25 (2) A confession of judgment clause or power of attorney.

26 (3) Any assignment of or order for payment of wages or other  
27 compensation for services.

28 (4) Any acceleration provision.

29 (5) Any unconscionable provision.

30 (i) If the licensee sells or otherwise transfers the debt at a later  
31 date, the licensee shall clearly disclose in a written agreement that  
32 any debt or checks held or transferred pursuant to a deferred  
33 deposit transaction made pursuant to this section are not subject  
34 to the provisions of Section 1719 of the Civil Code and that no  
35 customer may be required to pay treble damages if the check or  
36 checks are dishonored.

37 (j) This section shall become operative on January 1, 2018.

38 SEC. 14. No reimbursement is required by this act pursuant  
39 to Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 *district will be incurred because this act creates a new crime or*  
2 *infraction, eliminates a crime or infraction, or changes the penalty*  
3 *for a crime or infraction, within the meaning of Section 17556 of*  
4 *the Government Code, or changes the definition of a crime within*  
5 *the meaning of Section 6 of Article XIII B of the California*  
6 *Constitution.*

7 ~~SECTION 1. It is the intent of the Legislature to enact~~  
8 ~~legislation that would further regulate the making of deferred~~  
9 ~~deposit transactions.~~

O