AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 129

Introduced by Assembly Member Dickinson

January 15, 2013

An act to amend ~~Section 22201~~ *Sections 22361 and 22362* of the Financial Code, relating to finance lenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 129, as amended, Dickinson. Finance lenders.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation by the Commissioner of Corporations *until July 1, 2013, and thereafter by the Deputy Commissioner of Business Oversight for the Division of Corporations,* of those engaged in making consumer loans, as defined, and makes a willful violation of its provisions a misdemeanor. Existing law ~~defines the term charges for purposes of regulating consumer loans under the California Finance Lenders Law.~~ *, until January 1, 2015, establishes the Pilot Program for Affordable Credit-Building Opportunities for the purpose of increasing the availability of credit-building opportunities to underbanked individuals seeking low-dollar-value loans. Existing law requires licensees to file an application with, and pay a fee to, the commissioner to participate in the program. Existing law authorizes a licensee participating in the program to use the services of a finder, as defined, and regulates the activities and compensation of those finders. Existing law requires the commissioner to examine the performance of each licensee in the program at least once every 24 months, and requires the costs of examination to be paid by the licensee to the commissioner, as specified. Existing law also requires the commissioner to conduct a* *random sample survey of borrowers under the program and to report to specified legislative committees, by January 1, 2014, summarizing utilization of the Pilot Program for Affordable Credit-Building Opportunities, as specified. Existing law provides that information provided by a licensee to the commissioner for purposes of the report is exempt from public disclosure requirements.*

This bill would extend the pilot program until January 1, 2016, and change the date for the committees to report to the legislative committees to January 1, 2015. This bill would also provide legislative findings demonstrating the need for the limitation on disclosure of the information provided to the commissioner by a licensee for purposes of preparing the report regarding the program.

Because a willful violation of certain provisions under the pilot program would be a crime, this 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.

~~This bill would make a nonsubstantive change to these provisions.~~

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:

SECTION 1. Section 22361 of the Financial Code is amended to read:

22361. (a) On or before January 1, ~~2014,~~ *2015,* the commissioner shall submit a report to the Senate Committee on Banking, Finance and Insurance, the Assembly Committee on Banking and Finance, and the Senate and Assembly Committees on Judiciary, in compliance with Section 9795 of the Government Code, summarizing utilization of the Pilot Program for Affordable Credit-Building Opportunities and including recommendations regarding whether the program should be continued after January 1, ~~2015~~ *2016*.

(b) The information disclosed to the commissioner for the commissioner's use in preparing the report described in this section is exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code.

(c) If there is more than one licensee approved to participate in the program under this article, the report required pursuant to subdivision (a) shall state information in aggregate so as not to identify data by specific licensee.

(d) The report required pursuant to this section shall include, but not be limited to, the following:

(1) The number of finance lender licensees who applied to participate in the program.

(2) The number of finance lender licensees accepted to participate in the program.

(3) The number of program loan applications received by lenders participating in the program, the number of loans made pursuant to the program, the total amount loaned, and the distribution of interest rates and principal amounts upon origination among those loans.

(4) The number of borrowers who obtained more than one program loan.

(5) Of the number of borrowers who obtained more than one program loan, the percentage of those borrowers whose credit scores increased between successive loans, based on information from at least one major credit bureau, and the average size of the increase.

(6) The income distribution of borrowers, including the number of borrowers who obtained at least one program loan and who resided in a low-to-moderate-income census tract at the time of their loan application.

(7) The number of borrowers who obtained loans for the following purposes, based on borrower responses at the time of their loan applications indicating the primary purpose for which the loan was obtained:

(A) Medical.

(B) Other emergency.

(C) Vehicle repair.

(D) Vehicle purchase.

(E) To pay bills.

(F) To consolidate debt.

(G) To build or repair credit history.

(H) To finance a purchase of goods or services other than a vehicle.

(I) Other.

(8) The number of borrowers who have a bank account, the number of borrowers who have a bank account and use check-cashing services, and the number of borrowers who do not have a bank account.

(9) The number and type of finders used by all licensees, the amount of finder's fees paid by the type of finder, and the relative performance of loans consummated by finders compared to the performance of loans consummated without a finder.

(10) The number and percentage of borrowers who obtained one or more program loans on which late fees were assessed, the total amount of late fees assessed, and the average late fee assessed by dollar amount and as a percentage of the principal amount loaned.

(11) The quality of underwriting and performance of loans under this article consistent with the reporting standards applicable to other loans and financial products, including, but not limited to, credit cards and deferred deposit transactions.

(12) The number of times the commissioner found that a finder or licensee had violated this article.

(13) The number of times that the commissioner disqualified a finder from performing services, barred a finder from performing services at one or more specific locations of the finder, terminated a written agreement between a finder and a licensee, or imposed an administrative penalty.

(14) Recommendations for improving the program.

(15) Recommendations regarding whether the program should be continued after January 1, ~~2015~~ *2016*.

(e) The commissioner shall conduct a random sample survey of borrowers who have participated in the program to obtain information regarding the borrowers' experience and licensees' compliance with this article. The results of this survey shall be included in the report required by this section.

SEC. 2. Section 22362 of the Financial Code is amended to read:

22362. This article shall remain in effect only until January 1, ~~2015,~~ *2016*, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2015,~~ *2016,* deletes or extends that date.

SEC. 3. The Legislature finds and declares that Sections 1 and 2 of this act impose a limitation on the public's right of access to documents in the possession of a public agency within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following finding to demonstrate the interest protected by this limitation and the need for protecting that interest:

The nondisclosure of information provided to the Deputy Commissioner of Business Oversight for the Division of Corporations is necessary to protect the proprietary information of the finance lenders participating in the Pilot Program for Affordable Credit-Building Opportunities.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 22201 of the Financial Code is amended to read:~~

~~22201. "Charges" include any profit or advantage of any kind that a licensee may contract for, collect, receive, or obtain by a collateral sale, purchase, or agreement, in connection with negotiating, arranging, making, or other act in connection with any loan.~~

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