

AMENDED IN ASSEMBLY JANUARY 7, 2014

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 129**

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**Introduced by Assembly Member Dickinson**

January 15, 2013

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An act to amend ~~Sections 22361 and 22362 of the Financial Code Section 107 of the Corporations Code~~, relating to ~~finance lenders business associations~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 129, as amended, Dickinson. ~~Finance lenders~~. *Lawful money: alternative currency.*

*Existing law prohibits a corporation, flexible purpose corporation, association, or individual from issuing or putting in circulation, as money, anything but the lawful money of the United States.*

*This bill would specify that those provisions do not prohibit a corporation, flexible purpose corporation, association, or individual from issuing or using an alternative currency that is redeemable for lawful money or that has value based on the value of lawful money. This bill would also specify that a corporation, flexible purpose corporation, association, or individual shall not be required to accept alternative currency.*

~~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, 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.~~

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

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

- 1 *SECTION 1. Section 107 of the Corporations Code is amended*
- 2 *to read:*

1 107. ~~No~~A corporation, flexible purpose corporation, ~~association~~  
2 *association*, or individual shall *not* issue or put in circulation, as  
3 money, anything but the lawful money of the United States.  
4 *Nothing in this section shall prohibit the issuance and use of*  
5 *alternative currency that is redeemable for lawful money or that*  
6 *has value based on the value of lawful money but a corporation,*  
7 *flexible purpose corporation, association, or individual shall not*  
8 *be required to accept alternative currency.*

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

11 22361. ~~(a) On or before January 1, 2015, the commissioner~~  
12 ~~shall submit a report to the Senate Committee on Banking, Finance~~  
13 ~~and Insurance, the Assembly Committee on Banking and Finance,~~  
14 ~~and the Senate and Assembly Committees on Judiciary, in~~  
15 ~~compliance with Section 9795 of the Government Code,~~  
16 ~~summarizing utilization of the Pilot Program for Affordable~~  
17 ~~Credit-Building Opportunities and including recommendations~~  
18 ~~regarding whether the program should be continued after January~~  
19 ~~1, 2016.~~

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

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

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

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

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

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

- 1     ~~(4) The number of borrowers who obtained more than one~~  
2     ~~program loan.~~
- 3     ~~(5) Of the number of borrowers who obtained more than one~~  
4     ~~program loan, the percentage of those borrowers whose credit~~  
5     ~~scores increased between successive loans, based on information~~  
6     ~~from at least one major credit bureau, and the average size of the~~  
7     ~~increase.~~
- 8     ~~(6) The income distribution of borrowers, including the number~~  
9     ~~of borrowers who obtained at least one program loan and who~~  
10    ~~resided in a low-to-moderate-income census tract at the time of~~  
11    ~~their loan application.~~
- 12    ~~(7) The number of borrowers who obtained loans for the~~  
13    ~~following purposes, based on borrower responses at the time of~~  
14    ~~their loan applications indicating the primary purpose for which~~  
15    ~~the loan was obtained:~~
- 16    ~~(A) Medical.~~
- 17    ~~(B) Other emergency.~~
- 18    ~~(C) Vehicle repair.~~
- 19    ~~(D) Vehicle purchase.~~
- 20    ~~(E) To pay bills.~~
- 21    ~~(F) To consolidate debt.~~
- 22    ~~(G) To build or repair credit history.~~
- 23    ~~(H) To finance a purchase of goods or services other than a~~  
24    ~~vehicle.~~
- 25    ~~(I) Other.~~
- 26    ~~(8) The number of borrowers who have a bank account, the~~  
27    ~~number of borrowers who have a bank account and use~~  
28    ~~check-cashing services, and the number of borrowers who do not~~  
29    ~~have a bank account.~~
- 30    ~~(9) The number and type of finders used by all licensees, the~~  
31    ~~amount of finder's fees paid by the type of finder, and the relative~~  
32    ~~performance of loans consummated by finders compared to the~~  
33    ~~performance of loans consummated without a finder.~~
- 34    ~~(10) The number and percentage of borrowers who obtained~~  
35    ~~one or more program loans on which late fees were assessed, the~~  
36    ~~total amount of late fees assessed, and the average late fee assessed~~  
37    ~~by dollar amount and as a percentage of the principal amount~~  
38    ~~loaned.~~
- 39    ~~(11) The quality of underwriting and performance of loans under~~  
40    ~~this article consistent with the reporting standards applicable to~~

1 other loans and financial products, including, but not limited to,  
2 credit cards and deferred deposit transactions.

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

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

10 (14) Recommendations for improving the program.

11 (15) Recommendations regarding whether the program should  
12 be continued after January 1, 2016.

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

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

20 22362. This article shall remain in effect only until January 1,  
21 2016, and as of that date is repealed, unless a later enacted statute,  
22 that is enacted before January 1, 2016, deletes or extends that date.

23 SEC. 3. The Legislature finds and declares that Sections 1 and  
24 2 of this act impose a limitation on the public's right of access to  
25 documents in the possession of a public agency within the meaning  
26 of Section 3 of Article I of the California Constitution. Pursuant  
27 to that constitutional provision, the Legislature makes the following  
28 finding to demonstrate the interest protected by this limitation and  
29 the need for protecting that interest:

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

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

- 1 ~~the Government Code, or changes the definition of a crime within~~
- 2 ~~the meaning of Section 6 of Article XIII B of the California~~
- 3 ~~Constitution.~~

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