

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY AUGUST 22, 2013

AMENDED IN ASSEMBLY JULY 1, 2013

AMENDED IN ASSEMBLY JUNE 17, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 318**

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**Introduced by Senators Hill, Steinberg, and Correa**

(Coauthors: Assembly Members Alejo, Bonta, Brown, Dickinson,  
Mitchell, Mullin, and Perea)

February 19, 2013

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An act to amend Section 22750 of, to add and repeal Article 3.6 (commencing with Section 22365) of Chapter 2 of Division 9 of, and to repeal Article 3.5 (commencing with Section 22348) of Chapter 2 of Division 9 of, the Financial Code, relating to consumer loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 318, as amended, Hill. Consumer loans: Pilot Program for Increased Access to Responsible Small Dollar Loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Corporations and makes a willful violation of its provisions a crime. Existing law regulates the charges a licensee may impose or receive on loans it makes, and authorizes a licensee to contract

for and receive specified alternative charges and administrative and delinquency fees.

Existing law establishes, until January 1, 2015, 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. Under the program, licensees must file an application with, and pay a fee to, the Commissioner of Corporations to participate in the program. Existing law authorizes a licensee approved by the commissioner to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$250 and less than \$2,500, subject to certain requirements. Existing law also authorizes licensees in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts at the finder's location, subject to a written agreement meeting specified requirements.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, certain responsibilities of the Department of Corporations and the Commissioner of Corporations will be transferred to the Department of Business Oversight and the Commissioner of Business Oversight will be the head of the Department of Business Oversight.

This bill would abolish the Pilot Program for Affordable Credit-Building Opportunities. The bill would, until January 1, 2018, establish the Pilot Program for Increased Access to Responsible Small Dollar Loans for the purpose of allowing greater access for responsible installment loans in principal amounts of at least \$300 and less than \$2,500. The bill would require licensees and other entities to file an application and pay a specified fee to the Commissioner of Business Oversight to participate in the program. The bill would authorize a licensee approved by the commissioner to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$300 and less than \$2,500, subject to certain requirements.

This bill would also authorize a licensee in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts, subject to a written agreement meeting specified requirements. The bill would establish the

services a finder is authorized and required to perform, and would require a finder to comply with the laws applicable to the licensee relative to information security. The bill would require a licensee to notify the commissioner within 15 days of entering into a contract with a finder, would require a licensee to pay an annual finder registration fee to the commissioner, and would require a licensee to submit an annual report to the commissioner on the licensee's relationship and business arrangements with a finder, as specified. The bill would authorize the commissioner to examine the operations of a licensee and a finder to ensure that the activities of the licensee and the finder are in compliance with these provisions. The bill would make a licensee that uses a finder responsible for a violation of these provisions by a finder or a finder's employee, and would authorize the commissioner to impose administrative penalties against a finder for a violation of these provisions. The bill would authorize the commissioner, upon a violation of these provisions, to disqualify a finder from performing services, bar a finder from performing services at one or more specific locations of the finder, terminate a written agreement between a licensee and a finder, and, under specified circumstances, prohibit the use of the finder by all licensees. The bill would authorize a licensee participating in the program to appoint one or more branch managers with responsibility for multiple branch locations, subject to approval by the commissioner.

This bill would require the commissioner to examine the performance of each licensee in the program at least once every 24 months, and would require the costs of examination to be paid by the licensee to the commissioner, as specified. The bill would also require the commissioner to conduct a random sample survey of borrowers under the program. The bill would require the commissioner to post a report on the commissioner's Internet Web site by July 1, 2015, and once again by January 1, 2017, summarizing utilization of the Pilot Program for Increased Access to Responsible Small Dollar Loans, as specified.

This bill would make licensees of the abolished Pilot Program for Affordable Credit-Building Opportunities subject to the newly established Pilot Program for Increased Access to Responsible Small Dollar Loans. The bill would continue in existence any outstanding loans made under the abolished pilot program and the loans would remain subject to the terms and conditions that existed at the time the loan was made.

Because a willful violation of these provisions would be a crime, this bill would impose a state-mandated local program.

This bill would also make a clarifying change to the California Finance Lenders Law.

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. State-mandated local program: yes.

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

1 SECTION 1. Article 3.5 (commencing with Section 22348) of  
2 Chapter 2 of Division 9 of the Financial Code is repealed.

3 SEC. 2. Article 3.6 (commencing with Section 22365) is added  
4 to Chapter 2 of Division 9 of the Financial Code, to read:

5  
6 Article 3.6. Pilot Program for Increased Access to Responsible  
7 Small Dollar Loans

8  
9 22365. (a) The Pilot Program for Increased Access to  
10 Responsible Small Dollar Loans is hereby established.

11 (b) The Legislature finds and declares that consumer demand  
12 for responsible installment loans in principal amounts of at least  
13 three hundred dollars (\$300) but less than two thousand five  
14 hundred dollars (\$2,500) exceeds the supply of these loans. In  
15 2010, the Legislature enacted the Pilot Program for Affordable  
16 Credit-Building Opportunities, as a first step toward addressing  
17 this gap. California’s experience to date with that pilot program  
18 has identified several improvements that could be made, which  
19 would allow more Californians to access responsible installment  
20 loans of at least three hundred dollars (\$300) but less than two  
21 thousand five hundred dollars (\$2,500). This new Pilot Program  
22 for Increased Access to Responsible Small Dollar Loans is intended  
23 to implement those improvements.

24 (c) For purposes of this article:

25 (1) “Commissioner” means the Commissioner of Business  
26 ~~Oversight~~. *Oversight*.

27 (2) “Program” means the Pilot Program for Increased Access  
28 to Responsible Small Dollar Loans.

1 (3) Pursuant to Section 22380.5, “licensee” also includes a  
2 licensee approved to participate in the former Pilot Program for  
3 Affordable Credit-Building Opportunities as described in Article  
4 3.5 (commencing with Section 22348).

5 22366. (a) Any entity licensed under this chapter that wishes  
6 to participate in the program, that is in good standing with the  
7 commissioner and has no outstanding enforcement actions or  
8 deficiencies at the time of its application, shall file an application  
9 with the commissioner, in a manner prescribed by the  
10 commissioner, and shall pay a fee to the commissioner, in an  
11 amount calculated by the commissioner to cover its costs to  
12 administer this article.

13 (b) Any entity wishing to participate in the program that is not  
14 licensed pursuant to this chapter may submit a combined  
15 application to the commissioner, in a manner prescribed by the  
16 commissioner, for licensure under this chapter and admission to  
17 the program and shall pay a fee to the commissioner in an amount  
18 equal to the fees that would have been imposed if the person had  
19 submitted separate applications. To be eligible to apply in this  
20 manner, an entity must be free of outstanding enforcement or other  
21 disciplinary actions taken against it by any of California’s financial  
22 regulators or by a financial regulator of another state.

23 22367. Every entity approved by the commissioner to  
24 participate in the program shall file with the commissioner on or  
25 before March 15 an annual report consistent with Section 22159,  
26 separate from any other annual report the licensee may be required  
27 to file.

28 22368. Except as otherwise provided, nothing in this article  
29 shall exempt any licensee from any of the provisions of this  
30 division or Section 1632 of the Civil Code.

31 22369. No licensee may offer or make a loan, nor impose any  
32 charges or fees pursuant to Section 22370, nor use a finder pursuant  
33 to Section 22371, without prior approval from the commissioner  
34 to participate in the program.

35 22370. (a) Any loan made pursuant to this section shall comply  
36 with the following requirements:

- 37 (1) The loan shall be unsecured.
- 38 (2) Interest on the loan shall accrue on a simple-interest basis,  
39 through the application of a daily periodic rate to the actual unpaid  
40 principal balance each day.

1 (3) The licensee shall disclose the following to the consumer  
2 in writing, in a type face no smaller than 12-point type, at the time  
3 of application:

4 (A) The amount borrowed; the total dollar cost of the loan to  
5 the consumer if the loan is paid back on time, including the sum  
6 of the administrative fee, principal amount borrowed, and interest  
7 payments; the corresponding annual percentage rate, calculated in  
8 accordance with Federal Reserve Board Regulation Z (12 C.F.R.  
9 226); the periodic payment amount; the delinquency fee schedule;  
10 and the following statement: “Repaying your loan early will lower  
11 your borrowing costs by reducing the amount of interest you will  
12 pay. This loan has no prepayment penalty.”

13 (B) A statement that the consumer has the right to rescind the  
14 loan by notifying the licensee of the consumer’s intent to rescind  
15 the loan and returning the principal advanced by the end of the  
16 business day following the date the loan is consummated.

17 (4) A licensee may provide the borrower with the disclosures  
18 required by paragraph (3) in a mobile *or other electronic*  
19 application, on which the size of the type face of the disclosure  
20 can be manually modified by a prospective borrower, if the  
21 prospective borrower is given the option to print the disclosure in  
22 a type face of at least 12-point size or is provided by the licensee  
23 with a hardcopy of the disclosure in a type face of at least 12-point  
24 size before the loan is consummated.

25 (5) The loan shall have a minimum principal amount upon  
26 origination of three hundred dollars (\$300) and a term of not less  
27 than the following:

28 (A) Ninety days for loans whose principal balance upon  
29 origination is less than five hundred dollars (\$500).

30 (B) One hundred twenty days for loans whose principal balance  
31 upon origination is at least five hundred dollars (\$500), but is less  
32 than one thousand five hundred dollars (\$1,500).

33 (C) One hundred eighty days for loans whose principal balance  
34 upon origination is at least one thousand five hundred dollars  
35 (\$1,500).

36 (b) As an alternative to the charges authorized by Section 22303  
37 or 22304, a licensee approved by the commissioner to participate  
38 in the program may contract for and receive charges for a loan  
39 made pursuant to this section at an annual simple interest rate not  
40 to exceed the following:

1 (1) The lesser of 36 percent or the sum of 32.75 percent plus  
2 the United States prime lending rate, as of the date of loan  
3 origination, on that portion of the unpaid principal balance of the  
4 loan up to and including, but not in excess of, one thousand dollars  
5 (\$1,000). The interest rate calculated as of the date of loan  
6 origination shall be fixed for the life of the loan.

7 (2) The lesser of 35 percent or the sum of 28.75 percent plus  
8 the United States prime lending rate, as of the date of loan  
9 origination, on that portion of the unpaid principal balance of the  
10 loan in excess of one thousand dollars (\$1,000), but less than two  
11 thousand five hundred dollars (\$2,500). The interest rate calculated  
12 as of the date of loan origination shall be fixed for the life of the  
13 loan.

14 (c) (1) As to any loan made under this section, a licensee  
15 approved by the commissioner to participate in the program may  
16 contract for and receive an administrative fee, which shall be fully  
17 earned immediately upon making the loan, in an amount not to  
18 exceed the applicable of the following:

19 (A) Seven percent of the principal amount, exclusive of the  
20 administrative fee, or ninety dollars (\$90), whichever is less, on  
21 the first loan made to a borrower.

22 (B) Six percent of the principal amount, exclusive of the  
23 administrative fee, or seventy-five dollars (\$75), whichever is less,  
24 on the second and subsequent loans made to that borrower.

25 (2) A licensee shall not charge the same borrower an  
26 administrative fee more than once in any four-month period.

27 (3) For purposes of this section, “refinance” means the  
28 replacement or revision of an existing loan contract with a borrower  
29 that results in an extension of additional principal to that borrower.  
30 A licensee shall not refinance a loan made under this section, unless  
31 all of the following conditions are met at the time the borrower  
32 submits an application to refinance:

33 (A) The borrower has repaid at least 60 percent of the  
34 outstanding principal remaining on his or her loan.

35 (B) The borrower is current on his or her outstanding loan.

36 (C) The licensee underwrites the new loan in accordance with  
37 paragraph (4) of subdivision (f).

38 (D) If the loan proceeds of both the original loan and the  
39 refinance loan are to be used for personal, family, or household

1 purposes, the borrower has not previously refinanced the  
2 outstanding loan more than ~~twice~~ *once*.

3 (4) Notwithstanding paragraph (3), an administrative fee shall  
4 not be contracted for or received in connection with the refinancing  
5 of a loan unless at least eight months have elapsed since the receipt  
6 of a previous administrative fee paid by the borrower. With the  
7 exception of a loan that is refinanced, only one administrative fee  
8 may be contracted for or received until the loan has been repaid  
9 in full. Section 22305 shall not apply to any loan made under this  
10 section.

11 (d) Notwithstanding subdivision (a) of Section 22320.5, a  
12 licensee approved by the commissioner to participate in the  
13 program may require reimbursement from a borrower for the actual  
14 insufficient funds fees incurred by that licensee due to actions of  
15 the borrower, and may contract for and receive a delinquency fee  
16 that is one of the following amounts:

17 (1) For a period of delinquency of not less than seven days, an  
18 amount not in excess of fourteen dollars (\$14).

19 (2) For a period of delinquency of not less than 14 days, an  
20 amount not in excess of twenty dollars (\$20).

21 (e) If a licensee opts to impose a delinquency fee, it shall use  
22 the delinquency fee schedule described in subdivision (d), subject  
23 to all of the following:

24 (1) No more than one delinquency fee may be imposed per  
25 delinquent payment.

26 (2) No more than two delinquency fees may be imposed during  
27 any period of 30 consecutive days.

28 (3) No delinquency fee may be imposed on a borrower who is  
29 180 days or more past due if that fee would result in the sum of  
30 the borrower's remaining unpaid principal balance, accrued interest,  
31 and delinquency fees exceeding 180 percent of the original  
32 principal amount of the borrower's loan.

33 (4) The licensee or any of its wholly owned subsidiaries shall  
34 attempt to collect a delinquent payment for a period of at least 30  
35 days following the start of the delinquency before selling or  
36 assigning that unpaid debt to an independent party for collection.

37 (f) The following shall apply to a loan made by a licensee  
38 pursuant to this section:

39 (1) Prior to disbursement of loan proceeds, the licensee shall  
40 either (A) offer a credit education program or seminar to the

1 borrower that has been previously reviewed and approved by the  
2 commissioner for use in complying with this section; or (B) invite  
3 the borrower to a credit education program or seminar offered by  
4 an independent third party that has been previously reviewed and  
5 approved by the commissioner for use in complying with this  
6 section. The borrower shall not be required to participate in either  
7 of these education programs or seminars. A credit education  
8 program or seminar offered pursuant to this paragraph shall be  
9 provided at no cost to the borrower.

10 (2) The licensee shall report each borrower's payment  
11 performance to at least one consumer reporting agency that  
12 compiles and maintains files on consumers on a nationwide basis,  
13 upon acceptance as a data furnisher by that consumer reporting  
14 agency. For purposes of this section, a consumer reporting agency  
15 that compiles and maintains files on consumers on a nationwide  
16 basis is one that meets the definition in Section 603(p) of the  
17 federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any  
18 licensee that is accepted as a data furnisher after admittance into  
19 the program must report all borrower payment performance since  
20 its inception of lending under the program, as soon as practicable  
21 after its acceptance into the program, but in no event more than  
22 six months after its acceptance into the program.

23 (A) The commissioner may approve a licensee for the program,  
24 before that licensee has been accepted as a data furnisher by a  
25 consumer reporting agency, if the commissioner has a reasonable  
26 expectation, based on information supplied by the licensee, of both  
27 of the following:

28 (i) The licensee will be accepted as a data furnisher, once it  
29 achieves a lending volume required of data furnishers of its type  
30 by a consumer reporting agency.

31 (ii) That lending volume will be achieved within the first six  
32 months of the licensee commencing lending.

33 (B) Notwithstanding subparagraph (A), the commissioner shall  
34 withdraw approval for pilot program participation from any  
35 licensee that fails to become accepted as a data furnisher by a  
36 consumer reporting agency within six months of commencing  
37 lending under the pilot program.

38 (3) The licensee shall provide each borrower with the name of  
39 the consumer reporting agency or agencies to which it will report  
40 the borrower's payment history. A licensee that is accepted as a

1 data furnisher after admittance into the program shall notify its  
2 borrowers, as soon as practicable following acceptance as a data  
3 furnisher, regarding the name of the consumer reporting agency  
4 or agencies to which it will report that borrower's payment history.

5 (4) (A) The licensee shall underwrite each loan to determine a  
6 borrower's ability and willingness to repay the loan pursuant to  
7 the loan terms, and shall not make a loan if it determines, through  
8 its underwriting, that the borrower's total monthly debt service  
9 payments, at the time of origination, including the loan for which  
10 the borrower is being considered, and across all outstanding forms  
11 of credit that can be independently verified by the licensee, exceed  
12 50 percent of the borrower's gross monthly income.

13 (B) (i) The licensee shall seek information and documentation  
14 pertaining to all of a borrower's outstanding debt obligations during  
15 the loan application and underwriting process, including loans that  
16 are self-reported by the borrower but not available through  
17 independent verification. The licensee shall verify that information  
18 using a credit report from at least one consumer reporting agency  
19 that compiles and maintains files on consumers on a nationwide  
20 basis or through other available electronic debt verification services  
21 that provide reliable evidence of a borrower's outstanding debt  
22 obligations.

23 (ii) Notwithstanding the verification requirement in  
24 subparagraph (A), the licensee shall request from the borrower  
25 and include all information obtained from the borrower regarding  
26 outstanding deferred deposit transactions in the calculation of the  
27 borrower's outstanding debt obligations.

28 (iii) The licensee shall not be required to consider, for purposes  
29 of debt-to-income ratio evaluation, loans from friends or family.

30 (C) The licensee shall also verify the borrower's income that  
31 the licensee relies on to determine the borrower's debt-to-income  
32 ratio using information from either of the following:

33 (i) Electronic means or services that provide reliable evidence  
34 of the borrower's actual income.

35 (ii) Internal Revenue Service Form W-2, tax returns, payroll  
36 receipts, bank statements, or other third-party documents that  
37 provide reasonably reliable evidence of the borrower's actual  
38 income.

39 (5) The licensee shall notify each borrower, at least two days  
40 prior to each payment due date, informing the borrower of the

1 amount due, and the payment due date. Notification may be  
2 provided by any means *mutually* acceptable to the borrower *and*  
3 *the licensee. A borrower shall have the right to opt out of this*  
4 *notification at any time, upon electronic or written request to the*  
5 *licensee. The licensee shall notify each borrower of this right prior*  
6 *to disbursing loan proceeds.*

7 (g) (1) Notwithstanding Sections 22311 to 22315, inclusive,  
8 no person, in connection with, or incidental to, the making of any  
9 loan made pursuant to this article, may offer, sell, or require the  
10 borrower to contract for “credit insurance” as defined in paragraph  
11 (1) of subdivision (a) of Section 22314 or insurance on tangible  
12 personal or real property of the type specified in Section 22313.

13 (2) Notwithstanding Sections 22311 to 22315, inclusive, no  
14 licensee, finder, or any other person that participates in the  
15 origination of a loan under this article shall refer a borrower to any  
16 other person for the purchase of “credit insurance” as defined in  
17 paragraph (1) of subdivision (a) of Section 22314 or insurance on  
18 tangible personal or real property of the type specified in Section  
19 22313.

20 (h) (1) No licensee shall require, as a condition of providing  
21 the loan, that the borrower waive any right, penalty, remedy, forum,  
22 or procedure provided for in any law applicable to the loan,  
23 including the right to file and pursue a civil action or file a  
24 complaint with or otherwise communicate with the commissioner  
25 or any court or other public entity, or that the borrower agree to  
26 resolve disputes in a jurisdiction outside of California or to the  
27 application of laws other than those of California, as provided by  
28 law. Any waiver by a borrower must be knowing, voluntary, and  
29 in writing, and expressly not made a condition of doing business  
30 with the licensee. Any waiver that is required as a condition of  
31 doing business with the licensee shall be presumed involuntary,  
32 unconscionable, against public policy, and unenforceable. The  
33 licensee has the burden of proving that a waiver of any rights,  
34 penalties, forums, or procedures was knowing, voluntary, and not  
35 made a condition of the contract with the borrower.

36 (2) No licensee shall refuse to do business with or discriminate  
37 against a borrower or applicant on the basis that the borrower or  
38 applicant refuses to waive any right, penalty, remedy, forum, or  
39 procedure, including the right to file and pursue a civil action or  
40 complaint with, or otherwise notify, the commissioner or any court

1 or other public entity. The exercise of a person’s right to refuse to  
2 waive any right, penalty, remedy, forum, or procedure, including  
3 a rejection of a contract requiring a waiver, shall not affect any  
4 otherwise legal terms of a contract or an agreement.

5 (3) This subdivision shall not apply to any agreement to waive  
6 any right, penalty, remedy, forum, or procedure, including any  
7 agreement to arbitrate a claim or dispute, after a claim or dispute  
8 has arisen. Nothing in this subdivision shall affect the enforceability  
9 or validity of any other provision of the contract.

10 (i) This section shall not apply to any loan of a bona fide  
11 principal amount of two thousand five hundred dollars (\$2,500)  
12 or more as determined in accordance with Section 22251. For  
13 purposes of this subdivision, “bona fide principal amount” shall  
14 be determined in accordance with Section 22251.

15 22371. (a) A licensee who is approved by the commissioner  
16 to participate in the program may use the services of one or more  
17 finders as provided in this article.

18 (b) For purposes of this article, a “finder” means an entity that,  
19 at the finder’s physical location for business, brings a licensee and  
20 a prospective borrower together for the purpose of negotiating a  
21 loan contract.

22 (c) An entity, whose sole means of bringing a licensee and a  
23 prospective borrower together at that entity’s physical location for  
24 business is via an electronic access point through which a  
25 prospective borrower may directly access the Internet Web site of  
26 a licensee is not a “finder” for purposes of this article.

27 22372. (a) A finder may perform one or more of the following  
28 services for a licensee at the finder’s physical location for business:

29 (1) Distributing, circulating, using, or publishing preprinted  
30 brochures, flyers, factsheets, or other written materials relating to  
31 loans that the licensee may make or negotiate and that have been  
32 reviewed and approved in writing by the licensee prior to their  
33 being distributed, circulated, or published.

34 (2) Providing written factual information about loan terms,  
35 conditions, or qualification requirements to a prospective borrower  
36 that has been either prepared by the licensee or reviewed and  
37 approved in writing by the licensee. A finder may discuss that  
38 information with a prospective borrower in general terms, but may  
39 not provide counseling or advice to a prospective borrower.

1 (3) Notifying a prospective borrower of the information needed  
2 in order to complete a loan application without providing  
3 counseling or advice to a prospective borrower.

4 (4) Entering information provided by the prospective borrower  
5 on a preprinted or electronic application form or onto a  
6 preformatted computer database without providing counseling or  
7 advice to a prospective borrower.

8 (5) Assembling credit applications and other materials obtained  
9 in the course of a credit application transaction for submission to  
10 the licensee.

11 (6) Contacting the licensee to determine the status of a loan  
12 application.

13 (7) Communicating a response that is returned by the licensee's  
14 automated underwriting system to a borrower or a prospective  
15 borrower.

16 (8) Obtaining a borrower's signature on documents prepared  
17 by the licensee and delivering final copies of the documents to the  
18 borrower.

19 (b) A finder shall not engage in any of the following activities:

20 (1) Providing counseling or advice to a borrower or prospective  
21 borrower.

22 (2) Providing loan-related marketing material that has not  
23 previously been approved by the licensee to a borrower or a  
24 prospective borrower.

25 (3) Interpreting or explaining the relevance, significance, or  
26 effect of any of the marketing materials or loan documents the  
27 finder provides to a borrower or prospective borrower.

28 (c) Any person who performs one or more of the following  
29 activities is a broker within the meaning of Section 22004 rather  
30 than a finder within the meaning of this section:

31 (1) Negotiating the price, length, or any other loan term between  
32 a licensee and a prospective borrower.

33 (2) Advising either a prospective borrower or a licensee as to  
34 any loan term.

35 (3) Offering information pertaining to a single prospective  
36 borrower to more than one licensee, except that, if a licensee has  
37 declined to offer a loan to a prospective borrower and has so  
38 notified that prospective borrower in writing, the person may then  
39 offer information pertaining to a single prospective borrower to  
40 another licensee with which it has a finder's agreement.

1 (4) Personally contacting or providing services to a borrower  
 2 or prospective borrower at any place other than the finder’s  
 3 physical location for business.

4 (d) A finder shall comply with all laws applicable to the licensee  
 5 that impose requirements upon the licensee for safeguards for  
 6 information security.

7 22373. (a) At the time the finder receives or processes an  
 8 application for a program loan, the finder shall provide the  
 9 following statement to the applicant, on behalf of the licensee, in  
 10 no smaller than 10-point type, and shall ask the applicant to  
 11 acknowledge receipt of the statement in writing:  
 12

13 “Your loan application has been referred to us by [Name of  
 14 Finder]. We may pay a fee to [Name of Finder] for the successful  
 15 referral of your loan application. IF YOU ARE APPROVED FOR  
 16 THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR  
 17 LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP  
 18 WITH [NAME OF LICENSEE]. If you wish to report a complaint  
 19 about [Name of Finder] or [Name of Licensee] regarding this loan  
 20 transaction, you may contact the Department of Business Oversight,  
 21 Division of Corporations at 1-866-ASK-CORP (1-866-275-2677),  
 22 or file your complaint online at [www.corp.ca.gov](http://www.corp.ca.gov).”  
 23

24 (b) If the loan is consummated, the licensee shall provide the  
 25 borrower a written copy of the disclosure notice within two weeks  
 26 following the date of the loan consummation. A licensee may  
 27 include the disclosure within its loan contract, or may provide it  
 28 as a separate document to the borrower, via any means acceptable  
 29 to the borrower.

30 22374. (a) A finder may be compensated by the licensee  
 31 pursuant to the written agreement between the licensee and the  
 32 finder, as described in Section 22376.

33 (b) The compensation of a finder by a licensee shall be subject  
 34 to all of the following requirements:

35 (1) No fee shall be paid to a finder in connection with a loan  
 36 application until and unless that loan is consummated.

37 (2) No fee shall be paid to a finder based upon the principal  
 38 amount of the loan.

39 (3) No fee paid to a finder shall exceed the following amounts:

1 (A) Forty-five dollars (\$45) per loan for the first 40 loans  
2 originated each month at the finder's location.

3 (B) Forty dollars (\$40) per loan for any subsequent loans  
4 originated during that month at the finder's location.

5 (4) The finder's location for services under this article and other  
6 information required by Section 22375 has been reported to the  
7 commissioner and the finder has not been barred from providing  
8 services at that location by the commissioner.

9 (c) No licensee shall, directly or indirectly, pass on to a borrower  
10 any fee, or any portion of any fee, that the licensee pays to a finder  
11 in connection with that borrower's loan or loan application.

12 22375. A licensee that utilizes the service of a finder shall do  
13 all of the following:

14 (a) Notify the commissioner within 15 days of entering into a  
15 contract with a finder, on a form acceptable to the commissioner,  
16 regarding all of the following:

17 (1) The name and business address of the finder and all locations  
18 at which the finder will perform services under this article.

19 (2) The name and contact information for an employee of the  
20 finder who is knowledgeable about, and has the authority to  
21 execute, the contract governing the business relationship between  
22 the finder and the licensee.

23 (3) The name and contact information for one or more  
24 employees of the finder who are responsible for that finder's  
25 finding activities on behalf of the licensee.

26 (4) A list of the activities the finder shall perform on behalf of  
27 the licensee.

28 (5) Any other information requested by the commissioner.

29 (b) Pay an annual finder registration fee to the commissioner  
30 in an amount to be established by the commissioner by regulation  
31 for each finder utilized by the licensee.

32 (c) Submit an annual report to the commissioner including any  
33 information pertaining to each finder and the licensee's relationship  
34 and business arrangements with each finder as the commissioner  
35 may by regulation require.

36 22376. All arrangements between a licensee and a finder shall  
37 be set forth in a written agreement between the parties. The  
38 agreement shall contain a provision establishing that the finder  
39 agrees to comply with all regulations that are established by the  
40 commissioner pursuant to this article regarding the activities of

1 finders and that the commissioner shall have access to all of the  
2 finder's books and records that pertain to the finder's operations  
3 under the agreement with the licensee.

4 22377. (a) The commissioner may examine the operations of  
5 each licensee and each finder to ensure that the activities of the  
6 licensee and the finder are in compliance with this article. The  
7 costs of the commissioner's examination of each finder shall be  
8 attributed to the commissioner's examination of the licensee. Any  
9 violation of this article by a finder or a finder's employee shall be  
10 attributed to the finance lender with whom it has entered into an  
11 agreement for purposes of determining the licensee's compliance  
12 with this division.

13 (b) Upon a determination that a finder has acted in violation of  
14 this article, or any implementing regulation, the commissioner  
15 shall have the authority to disqualify a finder from performing  
16 services under this article, bar a finder from performing services  
17 at one or more specific locations of that finder, terminate a written  
18 agreement between a finder and a licensee, and, if the  
19 commissioner deems that action in the public interest, prohibit the  
20 use of that finder by all licensees accepted to participate in the  
21 pilot program.

22 (c) In addition to any other penalty allowed by law, the  
23 commissioner may impose an administrative penalty up to two  
24 thousand five hundred dollars (\$2,500) for violations of this article  
25 committed by a finder.

26 22378. Notwithstanding the requirements of Section 22102  
27 and its implementing regulations, a licensee accepted to participate  
28 in the program may appoint one or more branch managers with  
29 responsibility for multiple branch locations, subject to approval  
30 by the commissioner, and a finding by the commissioner that the  
31 centralized nature of underwriting and other key business activities  
32 performed by the licensee does not require a unique manager for  
33 each branch location, to ensure the protection of consumers who  
34 seek out loans from the licensee. The commissioner may revoke  
35 this approval at any time, upon a finding that a unique branch  
36 manager at each branch location is required for consumer  
37 protection.

38 22379. (a) Notwithstanding any other law, the commissioner  
39 shall examine each licensee that is accepted into the program at  
40 least once every 24 months. ~~The cost of each examination of a~~

1 licensee shall be paid to the commissioner by the licensee  
2 examined, and the commissioner may maintain an action for the  
3 recovery of the cost in any court of competent jurisdiction. In  
4 determining the cost of the examination, the commissioner may  
5 use the estimated average hourly cost for all persons performing  
6 examinations of licensees or other persons subject to this division  
7 for the fiscal year.

8 *(b) Notwithstanding subdivision (a), the commissioner shall*  
9 *have the authority to waive one or more branch office*  
10 *examinations, if the commissioner deems that the branch office*  
11 *examinations are not necessary for the protection of the public,*  
12 *due to the centralized operations of the licensee or other factors*  
13 *acceptable to the commissioner.*

14 *(c) The cost of each examination of a licensee shall be paid to*  
15 *the commissioner by the licensee examined, and the commissioner*  
16 *may maintain an action for the recovery of the cost in any court*  
17 *of competent jurisdiction. In determining the cost of the*  
18 *examination, the commissioner may use the estimated average*  
19 *hourly cost for all persons performing examinations of licensees*  
20 *or other persons subject to this division for the fiscal year.*

21 22380. (a) On or before July 1, 2015, and again, on or before  
22 January 1, 2017, the commissioner shall post a report on his or her  
23 Internet Web site summarizing utilization of the Pilot Program for  
24 Increased Access to Responsible Small Dollar Loans. The report  
25 required to be submitted on or before July 1, 2015, shall  
26 additionally include the information required by former Section  
27 22361, summarizing utilization of the Pilot Program for Affordable  
28 Credit-Building Opportunities, which was created by Chapter 640  
29 of the Statutes of 2010.

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

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

- 1 (d) The report required pursuant to this section shall specify the  
2 time period to which the report corresponds, and shall include, but  
3 not be limited to, the following for that time period:
- 4 (1) The number of entities that applied to participate in the  
5 program.
- 6 (2) The number of entities accepted to participate in the program.
- 7 (3) The reason or reasons for rejecting applications for  
8 participation, if applicable. This information shall be provided in  
9 a manner that does not identify the entity or entities rejected.
- 10 (4) The number of program loan applications received by lenders  
11 participating in the program, the number of loans made pursuant  
12 to the program, the total amount loaned, the distribution of loan  
13 lengths upon origination, and the distribution of interest rates and  
14 principal amounts upon origination among those loans.
- 15 (5) The number of borrowers who obtained more than one  
16 program loan and the distribution of the number of loans per  
17 borrower.
- 18 (6) Of the number of borrowers who obtained more than one  
19 program loan, the percentage of those borrowers whose credit  
20 scores increased between successive loans, based on information  
21 from at least one major credit bureau, and the average size of the  
22 increase.
- 23 (7) The income distribution of borrowers upon loan origination,  
24 including the number of borrowers who obtained at least one  
25 program loan and who resided in a low-to-moderate-income census  
26 tract at the time of their loan application.
- 27 (8) The number of borrowers who obtained loans for the  
28 following purposes, based on borrower responses at the time of  
29 their loan applications indicating the primary purpose for which  
30 the loan was obtained:
- 31 (A) Medical.
- 32 (B) Other emergency.
- 33 (C) Vehicle repair.
- 34 (D) Vehicle purchase.
- 35 (E) To pay bills.
- 36 (F) To consolidate debt.
- 37 (G) To build or repair credit history.
- 38 (H) To finance a purchase of goods or services other than a  
39 vehicle.
- 40 (I) For other than personal, family, or household purposes.

1 (J) Other.

2 (9) The number of borrowers who *self-report that they* had a  
3 bank account at the time of their loan application, the number of  
4 borrowers who *self-report that they* had a bank account and used  
5 check-cashing services, and the number of borrowers who  
6 *self-report that they* did not have a bank account *at the time of*  
7 *their loan application.*

8 ~~(10) The number of borrowers who received loan proceeds on~~  
9 ~~a stored value card, the fee schedules associated with these cards,~~  
10 ~~and the distribution of fees assessed on borrowers who received~~  
11 ~~their loan proceeds on these cards.~~

12 ~~(11)~~

13 (10) With respect to refinance loans, the report shall specifically  
14 include the following information:

15 (A) The number and percentage of borrowers who applied for  
16 a refinance loan.

17 (B) Of those borrowers who applied for a refinance loan, the  
18 number and percentage of borrowers who obtained a refinance  
19 loan.

20 (C) Of those borrowers who obtained a refinance loan:

21 (i) The percentage of borrowers who refinanced once.

22 (ii) The percentage of borrowers who refinanced twice.

23 (iii) The percentage of borrowers who refinanced more than  
24 twice.

25 (D) Of those borrowers who obtained a refinance loan, the  
26 average percentage of principal paid down before obtaining a  
27 refinance loan.

28 (E) Of those borrowers who obtained a refinance loan, the  
29 average amount of additional principal extended.

30 (F) Of those borrowers who obtained a refinance loan, the  
31 average number of late payments made on the loan that was  
32 refinanced.

33 ~~(12)~~

34 (11) The number and type of finders used by licensees and the  
35 relative performance of loans consummated by finders compared  
36 to the performance of loans consummated without a finder.

37 ~~(13)~~

38 (12) The number and percentage of borrowers who obtained  
39 one or more program loans on which late fees were assessed, the  
40 total amount of late fees assessed, and the average late fee assessed

1 by dollar amount and as a percentage of the principal amount  
2 loaned.

3 ~~(14)~~

4 ~~The quality of underwriting and performance of loans under~~  
5 ~~this article, including the number and percentage of borrowers~~  
6 ~~who defaulted on a program loan, consistent with the reporting~~  
7 ~~standards applicable to other loans and financial products, including~~  
8 ~~credit cards and deferred deposit transactions.~~

9 *(13) (A) The performance of loans under this article, as*  
10 *reflected by all of the following:*

11 *(i) The number and percentage of pilot program borrowers who*  
12 *experienced at least one delinquency lasting between 7 and 29*  
13 *days, and the distribution of principal loan amounts corresponding*  
14 *to those delinquencies.*

15 *(ii) The number and percentage of pilot program borrowers*  
16 *who experienced at least one delinquency lasting between 30 and*  
17 *59 days, and the distribution of principal loan amounts*  
18 *corresponding to those delinquencies.*

19 *(iii) The number and percentage of pilot program borrowers*  
20 *who experienced at least one delinquency lasting 60 days or more,*  
21 *and the distribution of principal loan amounts corresponding to*  
22 *those delinquencies.*

23 *(iv) The number and percentage of pilot program borrowers*  
24 *who experienced at least one delinquency of greater than 7 days*  
25 *and who did not subsequently bring their loan current.*

26 *(v) Among loans that were ever delinquent for 7 days or more,*  
27 *the average number of times borrowers experienced a delinquency*  
28 *of 7 days or more.*

29 *(B) To the extent data are readily available to the commissioner,*  
30 *the commissioner shall include in his or her report comparable*  
31 *delinquency data for unsecured loans made by persons licensed*  
32 *under Chapter 2 (commencing with Section 22365) of Division 9*  
33 *in principal amounts between two thousand five hundred dollars*  
34 *(\$2,500) and four thousand nine hundred ninety-nine dollars*  
35 *(\$4,999), and in principal amounts between five thousand dollars*  
36 *(\$5,000) and nine thousand nine hundred ninety-nine dollars*  
37 *(\$9,999), and for unsecured extensions of credit made by*  
38 *state-chartered banks and credit unions under the commissioner's*  
39 *jurisdiction, in principal amounts between two thousand five*  
40 *hundred dollars (\$2,500) and four thousand nine hundred*

1 *ninety-nine dollars (\$4,999), and in principal amounts between*  
2 *five thousand dollars (\$5,000) and nine thousand nine hundred*  
3 *ninety-nine dollars (\$9,999).*

4 ~~(15)~~

5 (14) The number and types of violations of this article by finders,  
6 which were documented by the commissioner.

7 ~~(16)~~

8 (15) The number and types of violations of this article by  
9 licensees, which were documented by the commissioner.

10 ~~(17)~~

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

16 ~~(18)~~

17 (17) The number of complaints received by the commissioner  
18 about a licensee or a finder, and the nature of those complaints.

19 ~~(19)~~

20 (18) Recommendations for improving the program.

21 ~~(20)~~

22 (19) Recommendations regarding whether the program should  
23 be continued after January 1, 2018.

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

29 22380.5. (a) The Pilot Program for Affordable Credit-Building  
30 Opportunities as described in Article 3.5 (commencing with Section  
31 22348) is abolished.

32 (b) All powers, duties, purposes, jurisdiction, responsibilities,  
33 and functions of the Commissioner of Corporations with respect  
34 to the former Article 3.5 (commencing with Section 22348) are  
35 transferred to the Commissioner of Business Oversight.

36 (c) Any licensee approved to participate in the Pilot Program  
37 for Affordable Credit-Building Opportunities as described in the  
38 former Article 3.5 (commencing with Section 22348) shall be  
39 transferred to, and subject to, the provisions of this article.

1 (d) Any outstanding loans made under the former Pilot Program  
 2 for Affordable Credit-Building Opportunities as described in  
 3 Article 3.5 (commencing with Section 22348) shall continue in  
 4 existence and be valid on and after January 1, 2014, subject to  
 5 those terms and conditions that existed at the time the loan was  
 6 made pursuant to the former Article 3.5 (commencing with Section  
 7 22348).

8 (e) Data submitted to the commissioner by licensees accepted  
 9 to the former Pilot Program for Affordable Credit-Building  
 10 Opportunities shall be summarized by the commissioner in the  
 11 report due to the Legislature on or before July 1, 2015, pursuant  
 12 to subdivision (a) of Section 22380.

13 22381. This article shall remain in effect only until January 1,  
 14 2018, and as of that date is repealed, unless a later enacted statute,  
 15 that is enacted before January 1, 2018, deletes or extends that date.

16 SEC. 3. Section 22750 of the Financial Code is amended to  
 17 read:

18 22750. (a) If any amount other than, or in excess of, the  
 19 charges permitted by this division is willfully charged, contracted  
 20 for, or received, the contract of loan is void, and no person has any  
 21 right to collect or receive any principal, charges, or recompense  
 22 in connection with the transaction.

23 (b) If any provision of this division is willfully violated in the  
 24 making or collection of a loan, whether by a licensee or by an  
 25 unlicensed person subject to this division, the contract of loan is  
 26 void, and no person has any right to collect or receive any principal,  
 27 charges, or recompense in connection with the transaction.

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