

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 526

Introduced by Senator Calderon

February 21, 2013

~~An act to add Section 23026.5 to the Financial Code, relating to deferred deposit transactions. An act to add Division 9.5 (commencing with Section 22900) to the Financial Code, relating to lending practices.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 526, as amended, Calderon. ~~Deferred deposit transactions. Commissioner of Corporations: lending practices: unlicensed activity report.~~

Existing law, the California Finance Lenders Law, provides for the licensure and regulation by the Commissioner of Corporations of licensees engaged in making consumer loans, as defined. Existing law requires these licensees to file an annual report with the commissioner concerning their business and operations. Existing law requires the commissioner to annually make and file with the department a composite of those annual reports. Existing law, the California Deferred Deposit Transaction Law, provides for the licensure and regulation by the Commissioner of Corporations of persons engaged in the business of originating or making deferred deposit transactions, as defined. Existing law requires a licensee to file an annual report with the commissioner. Existing law requires the commissioner to prepare an annual consolidated report based upon specified information received from licensees.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, the responsibilities of

the Department of Corporations and the Commissioner of Corporations shall be transferred to the Department of Business Oversight and the Deputy Commissioner of Business Oversight for the Division of Corporations.

This bill would, on or before March 15 annually, require the commissioner to prepare a specified report on the lending and collection practices of unlicensed persons offering deferred deposit transactions or installment loans, or both, in amounts under \$2,500, over the Internet, to persons in California, and on the enforcement actions taken by the commissioner against these persons. The bill would also require the commissioner to post on the department's Internet Web site the company names and Internet Web site addresses of unlicensed lenders offering those deferred deposit transactions or installment loans without a license from the commissioner. The bill would also require the commissioner to accompany this posting with a consumer warning that alerts Californians to the unlicensed nature of the activities being conducted by these lenders.

~~This bill would require the commissioner to include in the annual consolidated report specified information related to the practices of unlicensed deferred deposit lenders that make or originate deferred deposit transactions through the Internet to borrowers in this state. The bill would also require the department to report to the Legislature its recommendations with regard to those practices, as specified.~~

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

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

1 SECTION 1. Division 9.5 (commencing with Section 22900)
2 is added to the Financial Code, to read:

3

4 DIVISION 9.5. UNLICENSED ACTIVITY REPORT

5

6 22900. (a) In addition to the reports required by Sections
7 22160 and 23026, on or before March 15 of each year, the
8 commissioner shall report on the lending and collection practices
9 of unlicensed persons offering deferred deposit transactions or
10 installment loans, or both, in amounts under \$2,500, over the
11 Internet, to persons in California, and on the enforcement actions
12 taken by the commissioner against these persons.

1 (b) To the extent information is available, the commissioner's
2 report shall include all of the following for the prior calendar
3 year:

4 (1) The number of unlicensed lenders identified by the
5 commissioner as lending in California during the prior year, and
6 the company names and Internet Web site addresses these lenders
7 used.

8 (2) The state or country in which each of these Internet Web
9 sites was hosted.

10 (3) The rates and terms offered by these lenders.

11 (4) The collection practices of these lenders.

12 (5) The extent to which these lenders complied with the
13 provisions of California law applicable to them.

14 (6) The enforcement efforts taken against each of the unlicensed
15 lenders identified by the commissioner during the prior year.

16 (7) Recommendations for changes to law that would improve
17 the department's ability to identify and take enforcement actions
18 against unlicensed persons lending in California over the Internet,
19 and to minimize consumer harm resulting from such lending.

20 (c) Based on the findings of the report prepared pursuant to
21 this section, on the department's Internet Web site, the
22 commissioner shall on an ongoing basis post the company names
23 and Internet Web site addresses of unlicensed lenders offering
24 deferred deposit transactions or installment loans, or both, in
25 amounts under \$2,500, over the Internet, to persons in California,
26 without a required license from the commissioner to engage in
27 those activities. The commissioner shall accompany this posting
28 with a consumer warning that alerts Californians to the unlicensed
29 nature of the activities being conducted by these lenders via these
30 Internet Web sites.

31 (d) For purposes of this section, the following definitions shall
32 apply:

33 (1) "Commissioner" shall mean the Commissioner of
34 Corporations.

35 (2) "Department" shall mean the Department of Corporations.

36 ~~SECTION 1. It is the intent of the Legislature in enacting these~~
37 ~~provisions to address the abhorrent and illegal practices employed~~
38 ~~by unlicensed deferred deposit lenders that make or originate~~
39 ~~deferred deposit transactions through the Internet to borrowers in~~

1 ~~this state, including, but not limited to, to address the collection~~
2 ~~practices employed by these lenders.~~

3 ~~SEC. 2. Section 23026.5 is added to the Financial Code, to~~
4 ~~read:~~

5 ~~23026.5. (a) The commissioner shall include in the annual~~
6 ~~consolidated report prepared pursuant to Section 23026 an analysis~~
7 ~~of the practices of unlicensed deferred deposit lenders that make~~
8 ~~or originate deferred deposit transactions through the Internet to~~
9 ~~borrowers in this state, including, but not limited to, an analysis~~
10 ~~of the collection practices employed by these lenders. The analysis~~
11 ~~shall also include the rates and terms offered by these lenders and~~
12 ~~the extent to which these lenders comply with, or do not comply~~
13 ~~with, the California Deferred Deposit Transaction Law. The~~
14 ~~commissioner shall also include in the annual consolidated report~~
15 ~~a summary of the department's compliance efforts regarding~~
16 ~~unregulated and unlicensed deferred deposit lending through the~~
17 ~~Internet to borrowers in this state.~~

18 ~~(b) (1) On or before January 1, 2015, the department shall report~~
19 ~~to the Legislature its recommendations pertaining to the regulation~~
20 ~~and enhancement of its enforcement authority with regard to~~
21 ~~unlicensed deferred deposit lenders that make or originate deferred~~
22 ~~deposit transactions through the Internet to borrowers in this state.~~
23 ~~The department shall make recommendations with regard to~~
24 ~~changes to law that may minimize adverse consumer experiences.~~

25 ~~(2) The report to be submitted pursuant to paragraph (1) shall~~
26 ~~be submitted in compliance with Section 9795 of the Government~~
27 ~~Code.~~

28 ~~(3) The requirement for submitting a report pursuant to~~
29 ~~paragraph (1) shall become inoperative on January 1, 2019,~~
30 ~~pursuant to Section 10231.5 of the Government Code.~~