

AMENDED IN SENATE APRIL 22, 2014

**SENATE BILL**

**No. 1280**

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**Introduced by Senator Hueso**

February 21, 2014

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An act to add Article 3.8 (commencing with Section 22390) to Chapter 2 of Division 9 of the Financial Code, relating to finance lenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1280, as amended, Hueso. Department of Business Oversight: unsecured consumer loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight and makes a willful violation of its provisions a crime. Existing law regulates the terms and conditions under which a lender may make consumer loans. Under existing law, "consumer loan" means a loan, whether secured by either real or personal property, or both, or unsecured, the proceeds of which are intended by the borrower for use primarily for personal, family, or household purposes.

Existing law, until January 1, 2018, establishes 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.

This bill would require the Department of Business Oversight to establish, *by regulation*, a licensure program for the provision of unsecured consumer loans ~~in an amount up to \$1,000, as specified.~~ *In developing this program, the bill would authorize the department to consider certain factors, 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. Article 3.8 (commencing with Section 22390) is  
2 added to Chapter 2 of Division 9 of the Financial Code, to read:

3  
4 Article 3.8. Unsecured Consumer Loans  
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6 22390. (a) The Department of Business Oversight shall  
7 establish, *by regulation*, a licensure program for the provision of  
8 unsecured consumer loans in accordance with this article.

9 ~~(b) The principal amount of a loan made under this article shall~~  
10 ~~not exceed one thousand dollars (\$1,000).~~

11 ~~(c) The program established under this article shall be designed~~  
12 ~~to ensure that the loan product allows the licensee to receive a~~  
13 ~~reasonable return on its investment, taking into account the needs~~  
14 ~~of the consumer.~~

15 *(b) In developing this program, the department may consider*  
16 *all of the following, at a minimum:*

17 *(1) The minimum and maximum principal amount of loans that*  
18 *may be extended by lenders approved as licensees under the*  
19 *program.*

20 *(2) The minimum and maximum length of program loans.*

21 *(3) The interest rates and fees that lenders should be allowed*  
22 *to charge, and the extent to which these rates and fees:*

23 *(A) Are fair and reasonable to borrowers given state and federal*  
24 *consumer protection guidance and the rates and fees associated*  
25 *with other lending alternatives for which these borrowers may be*  
26 *eligible.*

27 *(B) Provide lenders with the opportunity for a reasonable rate*  
28 *of return on their investment given lenders' cost of funds, the risk*  
29 *profiles of these loans, and the returns on investment common to*  
30 *licensed nondepository lenders that offer unsecured installment*  
31 *loan products in states other than California.*

32 *(4) Whether program loans should be underwritten, and, if so,*  
33 *the underwriting criteria that should be applied.*

- 1     (5) *Whether borrower repayment history should be reported to*  
2 *a consumer reporting agency that compiles and maintains files on*  
3 *consumers on a nationwide basis.*
- 4     (6) *Whether licensees should be required to offer credit*  
5 *education approved by the department to borrowers who seek out*  
6 *program loans.*
- 7     (7) *What disclosures should be provided to borrowers at the*  
8 *time a loan application is submitted.*
- 9     (8) *Whether lenders that offer program loans should be able to*  
10 *offer other loans or insurance products concurrent with a program*  
11 *loan.*
- 12     (9) *Whether, and under what circumstances, past-due loans*  
13 *may be referred to independent third parties for collection.*
- 14     (10) *Whether, and under what circumstances, lenders that offer*  
15 *program loans may use unlicensed persons to aid in identifying*  
16 *borrowers who may be eligible for program loans.*
- 17     (11) *The frequency with which licensees should be examined,*  
18 *and the manner in which the costs of these examinations should*  
19 *be allocated.*
- 20     (12) *The nature of reporting that will be required of program*  
21 *licensees and of the department regarding lender and borrower*  
22 *performance under the program.*
- 23     (13) *Whether the lending program should replace existing*  
24 *California Finance Lenders Law rules for installment loans of*  
25 *similar amounts or be offered as an alternative to the existing*  
26 *California Finance Lenders Law.*
- 27     (14) *How the success of the lending program will be measured.*