

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 268

Introduced by Assembly Member Dababneh

February 10, 2015

An act to ~~amend~~ *repeal Sections 22304 and 22305 of, and to repeal and add Section 22303 of the Financial Code, relating to consumer loans.*

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as amended, Dababneh. ~~Consumer loans.~~ *loans: charges: administrative fees.*

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*. Under existing law, a finance lender includes any person who is engaged in the business of making consumer loans. With respect to consumer loans *of less than a bona fide principal amount of \$2,500*, existing law authorizes every licensee under that law who lends money to contract for and receive charges at a rate not exceeding the sum of certain percentages on specified parts of the unpaid principal balance, ~~except as specified.~~ *or at a charge determined by an alternative method.*

This bill would repeal those consumer loan provisions and would instead require the commissioner to establish an installment loan rate review process for licensees that intend to offer unsecured full amortizing installment loans of a minimum principal upon origination of at least \$300 and a maximum principal amount of \$2,500. The bill would require a licensee applying to make loans under this process to

provide to the commissioner specified information in order for its loan product to be considered for approval, including information about the proposed loan fees and other charges associated with the loan and the length of the loan.

This bill would require the rate review applications submitted to the commissioner to be in a manner prescribed by the commissioner, and accompanied by a fee, in an amount calculated by the commissioner to cover its administration costs. The bill would provide that an installment loan product approved for a licensee under this process is deemed approved for any licensee in good standing, and would require the commissioner to maintain a list on its Internet Web site of approved loan products.

Existing law, in addition to those charges on consumer loans, authorizes a licensee to contract for and receive an administrative fee with respect to a consumer loan of a bona fide principal amount of not more than \$2,500 at a rate not in excess of 5% of the principal amount or \$50, whichever is less, and with respect to a consumer loan of a bona fide principal amount in excess of \$2,500, at an amount not to exceed \$75.

This bill would repeal that authorization.

Because a willful violation of these provisions 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 that latter provision.~~

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:

- 1 SECTION 1. Section 22303 of the Financial Code is repealed.
- 2 22303. ~~Every licensee who lends any sum of money may~~
- 3 ~~contract for and receive charges at a rate not exceeding the sum~~
- 4 ~~of the following:~~

1 ~~(a) Two and one-half percent per month on that part of the~~
2 ~~unpaid principal balance of any loan up to, including, but not in~~
3 ~~excess of two hundred twenty-five dollars (\$225).~~

4 ~~(b) Two percent per month on that portion of the unpaid~~
5 ~~principal balance in excess of two hundred twenty-five dollars~~
6 ~~(\$225) up to, including, but not in excess of nine hundred dollars~~
7 ~~(\$900).~~

8 ~~(c) One and one-half percent per month on that part of the unpaid~~
9 ~~principal balance in excess of nine hundred dollars (\$900) up to,~~
10 ~~including, but not in excess of one thousand six hundred fifty~~
11 ~~dollars (\$1,650).~~

12 ~~(d) One percent per month on any remainder of such unpaid~~
13 ~~balance in excess of one thousand six hundred fifty dollars~~
14 ~~(\$1,650).~~

15 ~~This section does not apply to any loan of a bona fide principal~~
16 ~~amount of two thousand five hundred dollars (\$2,500) or more as~~
17 ~~determined in accordance with Section 22251.~~

18 *SEC. 2. Section 22303 is added to the Financial Code, to read:*

19 *22303. (a) The commissioner shall establish an installment*
20 *loan rate review process for licensees that intend to offer unsecured*
21 *full amortizing installment loans of a minimum principal upon*
22 *origination of at least three hundred dollars (\$300) and a maximum*
23 *principal amount of two thousand five hundred dollars (\$2,500).*
24 *Rate review applications submitted to the commissioner shall be*
25 *in a manner prescribed by the commissioner accompanied by a*
26 *fee to the commissioner, in an amount calculated by the*
27 *commissioner to cover its costs to administer this section.*

28 *(b) A licensee applying to make loans under this section shall*
29 *provide to the commissioner, at a minimum, the following*
30 *information in order for its loan product to be considered for*
31 *approval:*

32 *(1) The proposed loan fees and other charges associated with*
33 *the loan and the length of the loans.*

34 *(2) The proposed corresponding annual percentage rate,*
35 *calculated in accordance with Federal Reserve Board Regulation*
36 *Z (12 C.F.R. 226).*

37 *(3) If loans in differing amounts and terms are priced different,*
38 *a breakdown of those costs in each category.*

39 *(4) The underwriting standards by which a licensee will make*
40 *a determination to lend to a borrower.*

1 (5) Estimated number of loans that will be made in a year.

2 (6) Estimated rate of return by the licensee based on projections
3 of the proposed loan product and an estimate of loan losses.

4 (7) Whether the licensee plans to report borrower payment
5 performance to the credit reporting agencies.

6 (c) The review of applications under this section by the
7 commissioner shall be conducted in accordance with subdivision
8 (b) of Section 11346 of, and Section 11346.45 of, the Government
9 Code.

10 (d) Any entity that is not licensed under this chapter that wishes
11 to offer loans subject to this section shall submit its application
12 for licensure with the commissioner, in a manner prescribed by
13 the commissioner, along with an application to make loans under
14 this section.

15 (e) An installment loan product approved for a licensee under
16 the process established pursuant to this section shall be deemed
17 approved for any licensee in good standing. The commissioner
18 shall maintain a list on its Internet Web site of approved loan
19 products.

20 SEC. 3. Section 22304 of the Financial Code is repealed.

21 22304. ~~As an alternative to the charges authorized by Section~~
22 ~~22303, a licensee may contract for and receive charges at the~~
23 ~~greater of the following:~~

24 ~~(a) A rate not exceeding 1.6 percent per month on the unpaid~~
25 ~~principal balance.~~

26 ~~(b) A rate not exceeding five-sixths of 1 percent per month plus~~
27 ~~a percentage per month equal to one-twelfth of the annual rate~~
28 ~~prevailing on the 25th day of the second month of the quarter~~
29 ~~preceding the quarter in which the loan is made, as established by~~
30 ~~the Federal Reserve Bank of San Francisco, on advances to member~~
31 ~~banks under Sections 13 and 13a of the Federal Reserve Act, as~~
32 ~~now in effect or hereafter from time to time amended, or if there~~
33 ~~is no single determinable rate for advances, the closest counterpart~~
34 ~~of this rate as shall be determined by the Commissioner of~~
35 ~~Financial Institutions. Charges shall be calculated on the unpaid~~
36 ~~principal balance.~~

37 ~~(c) This section does not apply to any loan of a bona fide~~
38 ~~principal amount of two thousand five hundred dollars (\$2,500)~~
39 ~~or more as determined in accordance with Section 22251.~~

40 SEC. 4. Section 22305 of the Financial Code is repealed.

1 ~~22305. In addition to the charges authorized by Section 22303~~
2 ~~or 22304, a licensee may contract for and receive an administrative~~
3 ~~fee, which shall be fully earned immediately upon making the~~
4 ~~loan, with respect to a loan of a bona fide principal amount of not~~
5 ~~more than two thousand five hundred dollars (\$2,500) at a rate not~~
6 ~~in excess of 5 percent of the principal amount (exclusive of the~~
7 ~~administrative fee) or fifty dollars (\$50), whichever is less, and~~
8 ~~with respect to a loan of a bona fide principal amount in excess of~~
9 ~~two thousand five hundred dollars (\$2,500), at an amount not to~~
10 ~~exceed seventy-five dollars (\$75). No administrative fee may be~~
11 ~~contracted for or received in connection with the refinancing of a~~
12 ~~loan unless at least one year has elapsed since the receipt of a~~
13 ~~previous administrative fee paid by the borrower. Only one~~
14 ~~administrative fee may be contracted for or received until the loan~~
15 ~~has been repaid in full. For purposes of this section, “bona fide~~
16 ~~principal amount” shall be determined in accordance with Section~~
17 ~~22251.~~

18 ~~SEC. 5. No reimbursement is required by this act pursuant to~~
19 ~~Section 6 of Article XIII B of the California Constitution because~~
20 ~~the only costs that may be incurred by a local agency or school~~
21 ~~district will be incurred because this act creates a new crime or~~
22 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
23 ~~for a crime or infraction, within the meaning of Section 17556 of~~
24 ~~the Government Code, or changes the definition of a crime within~~
25 ~~the meaning of Section 6 of Article XIII B of the California~~
26 ~~Constitution.~~

27 ~~SECTION 1. Section 22303 of the Financial Code is amended~~
28 ~~to read:~~

29 ~~22303. Every licensee who lends any sum of money may~~
30 ~~contract for and receive charges at a rate not exceeding the sum~~
31 ~~of the following:~~

32 ~~(a) Two and one-half percent per month on that part of the~~
33 ~~unpaid principal balance of any loan up to, including, but not in~~
34 ~~excess of two hundred twenty-five dollars (\$225):~~

35 ~~(b) Two percent per month on that part of the unpaid principal~~
36 ~~balance in excess of two hundred twenty-five dollars (\$225) up~~
37 ~~to, including, but not in excess of nine hundred dollars (\$900):~~

38 ~~(c) One and one-half percent per month on that part of the unpaid~~
39 ~~principal balance in excess of nine hundred dollars (\$900) up to,~~

1 including, but not in excess of one thousand six hundred fifty
2 dollars (\$1,650):

3 (d) ~~One percent per month on any remainder of such unpaid~~
4 ~~balance in excess of one thousand six hundred fifty dollars~~
5 ~~(\$1,650):~~

6 ~~This section does not apply to any loan of a bona fide principal~~
7 ~~amount of two thousand five hundred dollars (\$2,500) or more as~~
8 ~~determined in accordance with Section 22251.~~