

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 15, 2015

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 Section 22305 of, to repeal Section 22304 of, and to repeal and add Section 22303 of the Financial Code, relating to consumer loans.~~ *An act to amend Section 22701 of the Financial Code, relating to lending.*

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as amended, Dababneh. ~~Consumer loans: charges.~~ *California Finance Lenders Law: violations.*

*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 authorizes the commissioner to investigate at any time the loans and business, and examine the books, accounts, records, and files used in the business of every person engaged in the business of a finance lender or broker for the purpose of discovering violations or securing information required by the commissioner in the administration and enforcement of the California Finance Lenders Law, as provided.*

*This bill would require the commissioner to examine at least every 48 months the affairs of every person engaged in the business of a finance lender or broker for compliance under that law, and would*

*authorize the commissioner to examine those persons as often as the commissioner deems necessary and appropriate for those purposes.*

~~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, 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.~~

~~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.~~

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

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

1     SECTION 1. Section 22701 of the Financial Code is amended  
2 to read:

3     22701. For the purpose of discovering violations of this division  
4 or securing information required by him or her in the administration  
5 and enforcement of this division, the commissioner may at any  
6 time investigate the loans and business, and examine the books,  
7 accounts, records, and files used in the business, of every person  
8 engaged in the business of a finance lender or broker, whether the  
9 person acts or claims to act as principal or agent, or under or  
10 without the authority of this division. For the purpose of  
11 examination, the commissioner and his or her representatives shall  
12 have free access to the offices and places of business, books,  
13 accounts, papers, records, files, safes, and vaults of all these  
14 persons. *As often as the commissioner deems necessary and*  
15 *appropriate, but at least once every 48 months, the commissioner*  
16 *shall examine the affairs of every person engaged in the business*  
17 *of a finance lender or broker for compliance with this division.*

18     ~~SECTION 1. Section 22303 of the Financial Code is repealed.~~

19     ~~SEC. 2. Section 22303 is added to the Financial Code, to read:~~

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

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

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

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

1 ~~(3) If loans in differing amounts and terms are priced different,~~  
2 ~~a breakdown of those costs in each category.~~

3 ~~(4) The underwriting standards by which a licensee will make~~  
4 ~~a determination to lend to a borrower.~~

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

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

8 ~~(7) Whether the licensee plans to report borrower payment~~  
9 ~~performance to the credit reporting agencies.~~

10 ~~(e) The review of applications under this section by the~~  
11 ~~commissioner shall be conducted in accordance with subdivision~~  
12 ~~(b) of Section 11346 of, and Section 11346.45 of, the Government~~  
13 ~~Code.~~

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

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

24 ~~SEC. 3. Section 22304 of the Financial Code is repealed.~~

25 ~~SEC. 4. Section 22305 of the Financial Code is amended to~~  
26 ~~read:~~

27 ~~22305. A licensee may contract for and receive an~~  
28 ~~administrative fee, which shall be fully earned immediately upon~~  
29 ~~making the loan, with respect to a loan of a bona fide principal~~  
30 ~~amount in excess of two thousand five hundred dollars (\$2,500),~~  
31 ~~at an amount not to exceed seventy-five dollars (\$75). No~~  
32 ~~administrative fee may be contracted for or received in connection~~  
33 ~~with the refinancing of a loan unless at least one year has elapsed~~  
34 ~~since the receipt of a previous administrative fee paid by the~~  
35 ~~borrower. Only one administrative fee may be contracted for or~~  
36 ~~received until the loan has been repaid in full. For purposes of this~~  
37 ~~section, "bona fide principal amount" shall be determined in~~  
38 ~~accordance with Section 22251.~~

39 ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~  
2 ~~district will be incurred because this act creates a new crime or~~  
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
5 ~~the Government Code, or changes the definition of a crime within~~  
6 ~~the meaning of Section 6 of Article XIII B of the California~~  
7 ~~Constitution.~~

O