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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 22701 ~~of~~ *of*, and to add Article 3.5 (commencing with Section 22350) to Chapter 2 of Division 9 of, the Financial Code, relating to lending.

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as amended, Dababneh. California Finance Lenders Law: *unsecured consumer loans: terms and conditions: violations.*

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and ~~brokers~~ *brokers*, which includes any person who is engaged in the business of making consumer loans, 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.

The California Finance Lenders Law regulates the terms and conditions under which a licensee under that law may make consumer loans, including, but not limited to, the maximum rate and administrative fee a borrower may be charged for specific loan amounts.

This bill would revise and impose additional terms and conditions under which a licensee may make unsecured consumer loans of a maximum principal balance upon origination of \$3,000 or less, including, among other things, the term of the loan, maximum rates that a licensee may charge for a loan, and restrictions on refinancing, as specified. The bill would allow a licensee, with prior approval from the commissioner, to use the services of one or more referral partners with respect to those loans that the licensee may make or negotiate, if specified conditions and requirements are met.

By imposing new requirements under the California Finance Lenders Law, the violation of which 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: ~~no~~-yes.

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

1 SECTION 1. Article 3.5 (commencing with Section 22350) is
2 added to Chapter 2 of Division 9 of the Financial Code, to read:

3

4 Article 3.5. Small Dollar Unsecured Consumer Loans

5

6 22350. (a) This article shall apply to an unsecured consumer
7 loan of a maximum principal balance upon origination of three
8 thousand dollars (\$3,000) or less. Any other sections in this

1 *division that are in conflict with this article shall not apply to these*
2 *loans.*

3 *(b) This article shall not apply to any loan made pursuant to*
4 *Article 3.6 (commencing with Section 22365).*

5 *22350.5. (a) Any unsecured consumer loan of a maximum*
6 *principal balance upon origination of three thousand dollars*
7 *(\$3,000) or less shall comply with all of the following*
8 *requirements:*

9 *(1) Interest on the loan accrues on a simple-interest basis,*
10 *through the application of a daily periodic rate to the actual unpaid*
11 *principal balance each day.*

12 *(2) The licensee discloses both of the following to the consumer*
13 *in writing at the time of application:*

14 *(A) The annual percentage rate, the periodic payment amount,*
15 *and the total finance charge, calculated as required by Federal*
16 *Reserve Board Regulation Z, as to a loan of an amount and term*
17 *substantially similar to the loan applied for by the consumer.*

18 *(B) That the consumer shall have the right to rescind the loan*
19 *by notifying the licensee of the consumer's intent to rescind the*
20 *loan and returning the principal advanced by the end of the*
21 *business day following the date of the consummation of the loan.*

22 *(3) The loan shall not contain a prepayment penalty or balloon*
23 *payment.*

24 *(4) For a loan that has a minimum principal amount upon*
25 *origination of one hundred fifty dollars (\$150), a term of not less*
26 *than the following:*

27 *(A) Thirty days for loans with a principal balance upon*
28 *origination of three hundred dollars (\$300) or less.*

29 *(B) Sixty days for loans with a principal balance upon*
30 *origination as more than three hundred dollars (\$300) but no more*
31 *than six hundred dollars (\$600).*

32 *(C) Ninety days for loans with a principal balance upon*
33 *origination of more than six hundred dollars (\$600) but no more*
34 *than one thousand dollars (\$1,000).*

35 *(D) One hundred twenty days for loans with a principal balance*
36 *upon origination of more than one thousand dollars (\$1,000) but*
37 *no more than one thousand eight hundred dollars (\$1,800).*

38 *(E) One hundred eighty days for loans with a principal balance*
39 *upon origination of more than one thousand eight hundred dollars*

1 (\$1,800) but no more than two thousand five hundred dollars
 2 (\$2,500).

3 (F) Three hundred sixty-five days for loans with a principal
 4 balance upon origination of more than two thousand five hundred
 5 dollars (\$2,500) but no more than three thousand dollars (\$3,000).

6 (b) A licensee may contract for and receive charges for an
 7 unsecured consumer loan up to one thousand dollars (\$1,000) at
 8 rates not exceeding the following:

9 (1) For loans up to three hundred dollars (\$300), a charge not
 10 to exceed 15 percent of the loan amount.

11 (2) For loans of more than three hundred dollars (\$300) but no
 12 more than six hundred dollars (\$600), a charge not to exceed 12
 13 percent of the loan amount.

14 (3) For loans of more than six hundred dollars (\$600) but no
 15 more than one thousand dollars (\$1,000), a charge not to exceed
 16 10 percent of the loan amount.

17 (c) A licensee may contract for and receive charges for an
 18 unsecured consumer loan of more than one thousand dollars
 19 (\$1,000) but no more than three thousand dollars (\$3,000) at a
 20 rate not exceeding the following:

21 (1) Twelve and one-half percent per month on that portion of
 22 the unpaid principal balance of the loan in excess of one thousand
 23 dollars (\$1,000) but not in excess of one thousand eight hundred
 24 dollars (\$1,800).

25 (2) Ten percent per month on that portion of the unpaid
 26 principal balance of the loan in excess of one thousand eight
 27 hundred dollars (\$1,800) but not in excess of three thousand
 28 dollars (\$3,000).

29 (d) Notwithstanding subdivision (c), for unsecured consumer
 30 loans of more than one thousand dollars (\$1,000) but no more
 31 than three thousand dollars (\$3,000) with interest rates in excess
 32 of 8.25 percent per month, a licensee shall reduce the interest rate
 33 after every three on-time payments until the rate is reduced to 36
 34 percent annual percentage rate or other performance based pricing
 35 as may be approved by the commissioner.

36 (e) A borrower who has made on-time payments and successfully
 37 completed a previous loan shall receive a discounted rate for
 38 subsequent loans.

39 (f) For purposes of this section, “refinance” means the
 40 replacement or revision of an existing loan contract with a

1 borrower that results in an extension of additional principal to
2 that borrower. A licensee shall not refinance a loan subject to this
3 article unless all of the following conditions are met at the time
4 the borrower submits an application to refinance:

5 (1) The borrower has repaid at least 60 percent of the
6 outstanding principal remaining on his or her loan.

7 (2) The borrower is current on his or her outstanding loan.

8 (3) The licensee underwrites the new loan in accordance with
9 subdivision (l).

10 (4) If the loan proceeds of both the original loan and the
11 refinance loan are to be used for personal, family, or household
12 purposes, the borrower has not previously refinanced the
13 outstanding loan more than once.

14 (g) A borrower that is unable to successfully pay back a loan
15 of no more than six hundred dollars (\$600) may request, and the
16 licensee shall provide, a no-cost repayment plan that converts the
17 loan to a minimum repayment period of at least 120 days.

18 (h) (1) Notwithstanding Section 22305, no administrative fee
19 may be imposed for a loan subject to this article except as provided
20 in paragraph (2).

21 (2) As to any loan made with a rate of less than 8.25 percent
22 per month, a licensee may contract for and receive an
23 administrative fee, which shall be fully earned immediately upon
24 making the loan, in an amount not in excess of either 6 percent of
25 the principal amount, exclusive of the administrative fee, or
26 seventy-five dollars (\$75), whichever is less. A licensee shall not
27 charge the same borrower more than one administrative fee in
28 any six-month period. An administrative fee shall not be contracted
29 for or received in connection with the refinancing of a loan unless
30 at least eight months have elapsed since the receipt of a previous
31 administrative fee paid by the borrower. Only one administrative
32 fee shall be contracted for or received until the loan has been
33 repaid in full.

34 (i) A licensee may contract for and receive a delinquency fee
35 in one of the following amounts:

36 (1) For a period in default of not less than seven days, an
37 amount not in excess of twelve dollars (\$12).

38 (2) For a period in default of not less than 14 days, an amount
39 not in excess of eighteen dollars (\$18).

1 (j) If a licensee opts to impose a delinquency fee, it shall use
2 the delinquency fee schedule described in subdivision (i), subject
3 to all of the following:

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

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

8 (3) No delinquency fee may be imposed on a borrower who is
9 180 days or more past due if that fee would result in the sum of
10 the borrower's remaining unpaid principal balance, accrued
11 interest, and delinquency fees exceeding 180 percent of the original
12 principal amount of the borrower's loan.

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

17 (k) The licensee shall report each borrower's payment
18 performance to at least one of the national credit reporting
19 agencies or any alternative consumer credit reporting agency
20 designated by the commissioner in the United States. The licensee
21 shall provide each borrower with the name of the consumer
22 reporting agency or agencies to which it will report the borrower's
23 payment history.

24 (l) (1) The licensee shall underwrite each loan to determine a
25 borrower's ability and willingness to repay the loan pursuant to
26 the loan term and shall not make a loan if it determines through
27 its underwriting that the borrower's total monthly debt service
28 payments at the time of origination, including the loan for which
29 the borrower is being considered and across all outstanding forms
30 of credit that can be independently verified by the licensee, exceed
31 50 percent of the borrower's gross monthly income.

32 (2) (A) In making a determination of the borrower's ability to
33 repay the loan, the licensee shall verify the information provided
34 by the borrower using a credit report from at least one of the three
35 major credit bureaus or through an alternative consumer credit
36 reporting agency approved by the commissioner. Notwithstanding
37 this section, a licensee may use a proprietary underwriting model,
38 approved by the commissioner, to determine a borrower's ability
39 to repay.

1 (B) *The licensee shall not be required to consider, for purposes*
2 *of debt-to-income ratio evaluation, loans from friends or family.*

3 (3) *The licensee shall also verify the borrower’s income that*
4 *the licensee relies on to determine the borrower’s debt-to-income*
5 *ratio and shall document in the loan file the source of the*
6 *information used to make the determination.*

7 (m) *No person in connection with or incidental to the making*
8 *of any loan made pursuant to this article may require the borrower*
9 *to contract for “credit insurance” as defined in paragraph (1) of*
10 *subdivision (a) of Section 22314 or insurance on tangible personal*
11 *or real property of the type specified in Section 22313.*

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

28 (2) *No licensee shall refuse to do business with or discriminate*
29 *against a borrower or applicant on the basis that the borrower or*
30 *applicant refuses to waive any right, penalty, remedy, forum, or*
31 *procedure, including the right to file and pursue a civil action or*
32 *complaint with, or otherwise notify, the commissioner or any court*
33 *or other public entity. The exercise of a person’s right to refuse*
34 *to waive any right, penalty, remedy, forum, or procedure, including*
35 *a rejection of a contract requiring a waiver, shall not affect any*
36 *otherwise legal terms of a contract or an agreement.*

37 (3) *This subdivision shall not apply to any agreement to waive*
38 *any right, penalty, remedy, forum, or procedure, including any*
39 *agreement to arbitrate a claim or dispute, after a claim or dispute*

1 *has arisen. Nothing in this subdivision shall affect the*
2 *enforceability or validity of any other provision of the contract.*

3 22351. (a) *A licensee, with prior approval from the*
4 *commissioner, may use the services of one or more referral*
5 *partners as provided in this article with respect to unsecured loans*
6 *of three thousand dollars (\$3,000) or less that the licensee may*
7 *make or negotiate.*

8 (b) *For purposes of this article, a “referral partner” means an*
9 *entity that, at the referral partner’s physical location for business,*
10 *brings a licensee and a prospective borrower together for the*
11 *purpose of negotiating a loan contract.*

12 22351.5. (a) *A referral partner may perform one or more of*
13 *the following services for a licensee at the referral partner’s*
14 *physical location for business:*

15 (1) *Distributing, circulating, using, or publishing preprinted*
16 *brochures, flyers, factsheets, or other written materials relating*
17 *to loans that the licensee may make or negotiate and that have*
18 *been reviewed and approved in writing by the licensee prior to*
19 *their being distributed, circulated, or published.*

20 (2) *Providing written factual information about loan terms,*
21 *conditions, or qualification requirements to a prospective borrower*
22 *that has been either prepared by the licensee or reviewed and*
23 *approved in writing by the licensee. A referral partner may discuss*
24 *that information with a prospective borrower in general terms,*
25 *but may not provide counseling or advice to a prospective*
26 *borrower.*

27 (3) *Notifying a prospective borrower of the information needed*
28 *in order to complete a loan application without providing*
29 *counseling or advice to a prospective borrower.*

30 (4) *Entering information provided by the prospective borrower*
31 *on a preprinted or electronic application form or into a*
32 *preformatted computer database without providing counseling or*
33 *advice to a prospective borrower.*

34 (5) *Assembling credit applications and other materials obtained*
35 *in the course of a credit application transaction for submission to*
36 *the licensee.*

37 (6) *Contacting the licensee to determine the status of a loan*
38 *application.*

1 (7) *Communicating a response that is returned by the licensee’s*
2 *automated underwriting system to a borrower or a prospective*
3 *borrower.*

4 (8) *Obtaining a borrower’s signature on documents prepared*
5 *by the licensee and delivering final copies of the documents to the*
6 *borrower.*

7 (b) *A referral partner that is licensed or regulated pursuant to*
8 *this division, Division 1.1 (commencing with Section 1000),*
9 *Division 1.2 (commencing with Section 2000), Division 3*
10 *(commencing with Section 12000), Division 5 (commencing with*
11 *Section 14000), Division 6 (commencing with Section 17000),*
12 *Division 7 (commencing with Section 18000), Division 8*
13 *(commencing with Section 21000), Division 10 (commencing with*
14 *Section 23000), or Division 20 (commencing with Section 50000)*
15 *of this code, Chapter 5 (commencing with Section 1621) of Part*
16 *2 of Division 1 of the Insurance Code, or Chapter 1 (commencing*
17 *with Section 5000) of Division 3 of the Business and Professions*
18 *Code; is an approved agent of a person licensed pursuant to*
19 *Division 1.2 (commencing with Section 2000) of this code; or is*
20 *a federally regulated bank, thrift, or credit union, or is registered*
21 *as a referral partner in a manner and on a form as prescribed by*
22 *the commissioner may additionally provide any of the following*
23 *services on behalf of the licensee for any loan for which the referral*
24 *partner performed finding activities:*

25 (1) (A) *Disbursing loan proceeds to a borrower, if this method*
26 *of disbursement is acceptable to the borrower.*

27 (B) *Any loan disbursement made by a referral partner under*
28 *this paragraph shall be deemed made by the licensee on the date*
29 *the funds are disbursed or otherwise made available by the referral*
30 *partner to the borrower.*

31 (C) *A referral partner that disburses loan proceeds to a*
32 *borrower shall deliver or cause to be delivered to the borrower*
33 *at the time loan proceeds are disbursed a plain and complete*
34 *receipt showing all of the following:*

35 (i) *The date of disbursement.*

36 (ii) *The total amount disbursed.*

37 (iii) *The corresponding loan account identification.*

38 (iv) *The following statement, prominently displayed in a type*
39 *size equal to or greater than the type size used to display the other*
40 *items on the receipt: “If you have any questions about your loan,*

1 now or in the future, you should direct those questions to [name
2 of licensee] by [insert at least two different ways in which a
3 borrower may contact the licensee].”

4 (2) (A) Receiving a loan payment or payments from the
5 borrower, if this method of payment is acceptable to the borrower.

6 (B) Any loan payment made by a borrower to a referral partner
7 under this paragraph shall be applied to the borrower’s loan and
8 deemed received by the licensee as of the date the payment is
9 received by the referral partner.

10 (C) A referral partner that receives loan payments under this
11 paragraph shall deliver or cause to be delivered to the borrower
12 at the time that the payment is made by the borrower a plain and
13 complete receipt showing all of the following:

14 (i) The name of the referral partner.

15 (ii) The total payment amount received.

16 (iii) The date of payment.

17 (iv) The corresponding loan account identification upon which
18 the payment is being applied.

19 (v) The loan balance prior to and following application of the
20 payment.

21 (vi) The amount of the payment that was applied to principal,
22 interest, and fees.

23 (vii) The type of payment, such as cash, automated clearing
24 house (ACH) transfer, check, money order, or debit card.

25 (viii) The following statement, prominently displayed in a type
26 size equal to or greater than the type size used to display the other
27 items on the receipt: “If you have any questions about your loan,
28 now or in the future, you should direct those questions to [name
29 of licensee] by [insert at least two different ways in which a
30 borrower may contact the licensee].”

31 (C) A borrower who submits a loan payment to a referral
32 partner under this paragraph shall not be liable for any failure or
33 delay by the referral partner in transmitting the payment to the
34 licensee.

35 (D) A referral partner that disburses or receives loan payments
36 pursuant to this paragraph shall maintain records of all
37 disbursements made and loan payments received for a period of
38 at least two years or until one month following the completion of
39 an examination of the licensee by the commissioner, whichever is

1 later. The commissioner shall determine when an examination is
2 complete.

3 (3) Providing any notice or disclosure required to be provided
4 to the borrower by the licensee, other than the notice required to
5 be provided by the licensee to the borrower pursuant to subdivision
6 (d) of Section 22373. A licensee that uses a referral partner to
7 provide notices or disclosures to borrowers shall maintain a record
8 of which notices and disclosures each referral partner provides
9 to borrowers on its behalf, for the purpose of facilitating the
10 commissioner's examination of the licensee.

11 (c) A referral partner shall not engage in either of the following
12 activities:

13 (1) Providing counseling or advice to a borrower or prospective
14 borrower.

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

18 22352. (a) At the time the referral partner receives or
19 processes an application for a program loan, the referral partner
20 shall provide the following statement to the applicant, on behalf
21 of the licensee, in no smaller than 10-point type, and shall ask the
22 applicant to acknowledge receipt of the statement in writing:

23 "Your loan application has been referred to us by [Name of
24 Referral Partner]. We may pay a fee to [Name of Referral Partner]
25 for the successful referral of your loan application. IF YOU ARE
26 APPROVED FOR THE LOAN, [NAME OF LICENSEE] WILL
27 BECOME YOUR LENDER, AND YOU WILL BE BUILDING A
28 RELATIONSHIP WITH [NAME OF LICENSEE]. If you have any
29 questions about your loan, now or in the future, you should direct
30 those questions to [Name of Licensee] by [insert at least two
31 different ways in which a borrower may contact the licensee]. If
32 you wish to report a complaint about [Name of Referral Partner]
33 or [Name of Licensee] regarding this loan transaction, you may
34 contact the Department of Business Oversight at 866-275-2677
35 or file your complaint online at www.dbo.ca.gov."

36 (b) If the loan applicant has questions about the loan that the
37 referral partner is not permitted to answer, the referral partner
38 shall make a good faith effort to assist the applicant in making
39 direct contact with the lender before the loan is consummated.
40 This good faith effort shall, at a minimum, consist of assisting the

1 applicant in communicating with the licensee as soon as reasonably
2 practicable, which shall at a minimum include a “two-way
3 communication.” For purposes of this section, “two-way
4 communication” includes telephone, electronic mail, or another
5 form of communication that allows the applicant to communicate
6 with the licensee.

7 (c) If the loan is consummated, the licensee shall provide the
8 borrower a written copy of the disclosure notice within two weeks
9 following the date of the loan consummation. A licensee may
10 include the disclosure within its loan contract, or may provide it
11 as a separate document to the borrower, via any means acceptable
12 to the borrower.

13 22352.5. (a) A referral partner may be compensated by the
14 licensee pursuant to the written agreement between the licensee
15 and the referral partner, as described in Section 22353.5.
16 Compensation may be paid in accordance with a compensation
17 schedule that is mutually agreed to by the licensee and the referral
18 partner.

19 (b) Notwithstanding subdivision (a), the compensation of a
20 referral partner by a licensee shall be subject to all of the following
21 requirements:

22 (1) No compensation shall be paid to a referral partner in
23 connection with a loan application unless that loan is
24 consummated.

25 (2) No compensation shall be paid to a referral partner based
26 upon the principal amount of the loan.

27 (3) Subject to the limitations set forth in paragraphs (1) and
28 (2), the total compensation paid by a licensee to a referral partner
29 for the services set forth in subdivision (a) of Section 22351.5 shall
30 not exceed sixty-five dollars (\$65) per loan, on average, assessed
31 annually, whether paid at the time of consummation, over
32 installments, or in a manner otherwise agreed upon by the licensee
33 and the referral partner, plus two dollars (\$2) per payment
34 received by the referral partner on behalf of the licensee for the
35 duration of the loan, when the referral partner receives borrower
36 loan payments on the licensee’s behalf in accordance with
37 subdivision (b) of Section 22351.5.

38 (4) No licensee shall, directly or indirectly, pass on to a
39 borrower any fee or other compensation, or any portion of any

1 *fee or other compensation, that the licensee pays to a referral*
2 *partner in connection with that borrower's loan.*

3 *22353. A licensee that utilizes the service of a referral partner*
4 *shall do all of the following:*

5 *(a) Notify the commissioner within 15 days of entering into a*
6 *contract with a referral partner, on a form acceptable to the*
7 *commissioner, regarding all of the following:*

8 *(1) The name, business address, and licensing details of the*
9 *referral partner and all locations at which the referral partner*
10 *will perform services under this article.*

11 *(2) The name and contact information for an employee of the*
12 *referral partner who is knowledgeable about, and has the authority*
13 *to execute, the contract governing the business relationship*
14 *between the referral partner and the licensee.*

15 *(3) The name and contact information for one or more*
16 *employees of the referral partner who are responsible for that*
17 *referral partner's finding activities on behalf of the licensee.*

18 *(4) A list of the activities the referral partner shall perform on*
19 *behalf of the licensee.*

20 *(5) Any other information requested by the commissioner.*

21 *(b) Pay an annual referral partner registration fee to the*
22 *commissioner in an amount to be established by the commissioner*
23 *by regulation for each referral partner utilized by the licensee.*

24 *(c) Submit an annual report to the commissioner including any*
25 *information pertaining to each referral partner and the licensee's*
26 *relationship and business arrangements with each referral partner*
27 *as the commissioner may by regulation require. The information*
28 *disclosed to the commissioner for the report described in this*
29 *subdivision is exempted from any requirement of public disclosure*
30 *by paragraph (2) of subdivision (d) of Section 6254 of the*
31 *Government Code.*

32 *22353.5. All arrangements between a licensee and a referral*
33 *partner shall be set forth in a written agreement between the*
34 *parties. The agreement shall contain a provision establishing that*
35 *the referral partner agrees to comply with all regulations that are*
36 *established by the commissioner pursuant to this article regarding*
37 *the activities of referral partner and that the commissioner shall*
38 *have access to all of the referral partner's books and records that*
39 *pertain to the referral partner's operations under the agreement*
40 *with the licensee.*

1 22354. (a) *The commissioner may examine the operations of*
2 *each licensee and each referral partner to ensure that the activities*
3 *of the licensee and the referral partner are in compliance with this*
4 *article. The costs of the commissioner's examination of each*
5 *referral partner shall be attributed to the commissioner's*
6 *examination of the licensee. Any violation of this article by a*
7 *referral partner or a referral partner's employee shall be attributed*
8 *to the finance lender with whom it has entered into an agreement*
9 *for purposes of determining the licensee's compliance with this*
10 *division.*

11 (b) *Upon a determination that a referral partner has acted in*
12 *violation of this article, or any implementing regulation, or upon*
13 *a determination that it would be warranted by the data reported*
14 *to the commissioner pursuant to subdivision (c) of Section 22353*
15 *for any referral partner, the commissioner may disqualify a referral*
16 *partner from performing services under this article, bar a referral*
17 *partner from performing services at one or more specific locations*
18 *of that referral partner, and terminate a written agreement between*
19 *a referral partner and a licensee.*

20 (c) *In addition to any other penalty allowed by law, the*
21 *commissioner may impose an administrative penalty of up to two*
22 *thousand five hundred dollars (\$2,500) for violations committed*
23 *by a referral partner.*

24 **SECTION 1.**

25 **SEC. 2.** Section 22701 of the Financial Code is amended to
26 read:

27 22701. For the purpose of discovering violations of this division
28 or securing information required by him or her in the administration
29 and enforcement of this division, the commissioner may at any
30 time investigate the loans and business, and examine the books,
31 accounts, records, and files used in the business, of every person
32 engaged in the business of a finance lender or broker, whether the
33 person acts or claims to act as principal or agent, or under or
34 without the authority of this division. For the purpose of
35 examination, the commissioner and his or her representatives shall
36 have free access to the offices and places of business, books,
37 accounts, papers, records, files, safes, and vaults of all these
38 persons. As often as the commissioner deems necessary and
39 appropriate, but at least once every 48 months, the commissioner

1 shall examine the affairs of every person engaged in the business
2 of a finance lender or broker for compliance with this division.

3 *SEC. 3. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*