

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE MAY 5, 2015

SENATE BILL

No. 235

**Introduced by Senator Block
(Coauthor: Senator Hill)**

February 17, 2015

An act to amend Sections 22370, 22372, 22373, 22374, 22375, and 22377 of the Financial Code, relating to consumer loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 235, as amended, Block. Small dollar loans: finder duties and compensation.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders by the Commissioner of Business Oversight and makes a willful violation of its provisions a crime. Existing law establishes, until January 1, 2018, 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 administered by the commissioner.

Existing law authorizes a licensee in the program to use the services of finders, as defined, to bring licensees and prospective borrowers together, at the finder's place of business, for the purpose of negotiating loan contracts, subject to a written agreement meeting specified requirements.

This bill would expand the services that a finder, licensed or regulated under prescribed provisions of law, is authorized to perform to include, among other things, disbursement of loan proceeds to, and receipt of loan payments from, the borrower.

This bill would require the licensee to develop and implement policies and procedures designed to respond to questions raised by applicants and borrowers regarding their loans, including those involving finders.

Existing law establishes a maximum finder's fee of \$45 per loan for the first 40 loans originated at the finder's location per month, and \$40 per loan for loans thereafter during that month.

This bill would delete those maximums and would authorize payment of finder compensation pursuant to a schedule that is mutually agreed to by the licensee and the finder, not to exceed \$70 per loan. The bill would ~~require~~ *require, if a loan applicant has questions that the finder is not permitted to answer, the finder to assist an applicant in obtaining answers to questions about his or her loan, and would make conforming changes: in making direct contact with the lender before the loan is consummated, and would require the licensee to ensure that a loan is not consummated until the licensee completes a 2-way communication, as defined, with the applicant.* The bill would require a licensee to provide the commissioner with prescribed information relating to each finder, including, but not limited to, the finder's delinquency rate and default rate, and would authorize the commissioner to take prescribed action against a finder ~~that is found to be in violation, upon determination that it would be warranted by reported data,~~ including, but not limited to, disqualifying the finder from providing services under the pilot program.

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.

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

- 1 *SECTION 1. Section 22370 of the Financial Code is amended*
- 2 *to read:*
- 3 22370. (a) Any loan made pursuant to this section shall comply
- 4 with the following requirements:
- 5 (1) The loan shall be unsecured.

1 (2) Interest on the loan shall accrue on a simple-interest basis,
2 through the application of a daily periodic rate to the actual unpaid
3 principal balance each day.

4 (3) The licensee shall disclose the following to the consumer
5 in writing, in a type face no smaller than 12-point type, at the time
6 of application:

7 (A) The amount borrowed; the total dollar cost of the loan to
8 the consumer if the loan is paid back on time, including the sum
9 of the administrative fee, principal amount borrowed, and interest
10 payments; the corresponding annual percentage rate, calculated in
11 accordance with Federal Reserve Board Regulation Z (12 C.F.R.
12 226); the periodic payment amount; the delinquency fee schedule;
13 and the following statement: “Repaying your loan early will lower
14 your borrowing costs by reducing the amount of interest you will
15 pay. This loan has no prepayment penalty.”

16 (B) A statement that the consumer has the right to rescind the
17 loan by notifying the licensee of the consumer’s intent to rescind
18 the loan and returning the principal advanced by the end of the
19 business day following the date the loan is consummated.

20 (4) A licensee may provide the borrower with the disclosures
21 required by paragraph (3) in a mobile or other electronic
22 application, on which the size of the type face of the disclosure
23 can be manually modified by a prospective borrower, if the
24 prospective borrower is given the option to print the disclosure in
25 a type face of at least 12-point size or is provided by the licensee
26 with a hardcopy of the disclosure in a type face of at least 12-point
27 size before the loan is consummated.

28 (5) The loan shall have a minimum principal amount upon
29 origination of three hundred dollars (\$300) and a term of not less
30 than the following:

31 (A) Ninety days for loans whose principal balance upon
32 origination is less than five hundred dollars (\$500).

33 (B) One hundred twenty days for loans whose principal balance
34 upon origination is at least five hundred dollars (\$500), but is less
35 than one thousand five hundred dollars (\$1,500).

36 (C) One hundred eighty days for loans whose principal balance
37 upon origination is at least one thousand five hundred dollars
38 (\$1,500).

39 (b) As an alternative to the charges authorized by Section 22303
40 or 22304, a licensee approved by the commissioner to participate

1 in the program may contract for and receive charges for a loan
2 made pursuant to this section at an annual simple interest rate not
3 to exceed the following:

4 (1) The lesser of 36 percent or the sum of 32.75 percent plus
5 the United States prime lending rate, as of the date of loan
6 origination, on that portion of the unpaid principal balance of the
7 loan up to and including, but not in excess of, one thousand dollars
8 (\$1,000). The interest rate calculated as of the date of loan
9 origination shall be fixed for the life of the loan.

10 (2) The lesser of 35 percent or the sum of 28.75 percent plus
11 the United States prime lending rate, as of the date of loan
12 origination, on that portion of the unpaid principal balance of the
13 loan in excess of one thousand dollars (\$1,000), but less than two
14 thousand five hundred dollars (\$2,500). The interest rate calculated
15 as of the date of loan origination shall be fixed for the life of the
16 loan.

17 (c) (1) As to any loan made under this section, a licensee
18 approved by the commissioner to participate in the program may
19 contract for and receive an administrative fee, which shall be fully
20 earned immediately upon making the loan, in an amount not to
21 exceed the applicable of the following:

22 (A) Seven percent of the principal amount, exclusive of the
23 administrative fee, or ninety dollars (\$90), whichever is less, on
24 the first loan made to a borrower.

25 (B) Six percent of the principal amount, exclusive of the
26 administrative fee, or seventy-five dollars (\$75), whichever is less,
27 on the second and subsequent loans made to that borrower.

28 (2) A licensee shall not charge the same borrower an
29 administrative fee more than once in any four-month period.

30 (3) For purposes of this section, “refinance” means the
31 replacement or revision of an existing loan contract with a borrower
32 that results in an extension of additional principal to that borrower.
33 A licensee shall not refinance a loan made under this section, unless
34 all of the following conditions are met at the time the borrower
35 submits an application to refinance:

36 (A) The borrower has repaid at least 60 percent of the
37 outstanding principal remaining on his or her loan.

38 (B) The borrower is current on his or her outstanding loan.

39 (C) The licensee underwrites the new loan in accordance with
40 paragraph (4) of subdivision (f).

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

5 (4) Notwithstanding paragraph (3), an administrative fee shall
6 not be contracted for or received in connection with the refinancing
7 of a loan unless at least eight months have elapsed since the receipt
8 of a previous administrative fee paid by the borrower. With the
9 exception of a loan that is refinanced, only one administrative fee
10 may be contracted for or received until the loan has been repaid
11 in full. Section 22305 shall not apply to any loan made under this
12 section.

13 (d) Notwithstanding subdivision (a) of Section 22320.5, a
14 licensee approved by the commissioner to participate in the
15 program may require reimbursement from a borrower for the actual
16 insufficient funds fees incurred by that licensee due to actions of
17 the borrower, and may contract for and receive a delinquency fee
18 that is one of the following amounts:

19 (1) For a period of delinquency of not less than seven days, an
20 amount not in excess of fourteen dollars (\$14).

21 (2) For a period of delinquency of not less than 14 days, an
22 amount not in excess of twenty dollars (\$20).

23 (e) If a licensee opts to impose a delinquency fee, it shall use
24 the delinquency fee schedule described in subdivision (d), subject
25 to all of the following:

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

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

30 (3) No delinquency fee may be imposed on a borrower who is
31 180 days or more past due if that fee would result in the sum of
32 the borrower's remaining unpaid principal balance, accrued interest,
33 and delinquency fees exceeding 180 percent of the original
34 principal amount of the borrower's loan.

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

39 (f) *The licensee shall develop and implement policies and*
40 *procedures designed to respond to questions raised by applicants*

1 *and borrowers regarding their loans, including those involving*
2 *finders, and to address customer complaints as soon as reasonably*
3 *practicable.*

4 ~~(f)~~

5 (g) The following shall apply to a loan made by a licensee
6 pursuant to this section:

7 (1) Prior to disbursement of loan proceeds, the licensee shall
8 either (A) offer a credit education program or seminar to the
9 borrower that has been previously reviewed and approved by the
10 commissioner for use in complying with this section; or (B) invite
11 the borrower to a credit education program or seminar offered by
12 an independent third party that has been previously reviewed and
13 approved by the commissioner for use in complying with this
14 section. The borrower shall not be required to participate in either
15 of these education programs or seminars. A credit education
16 program or seminar offered pursuant to this paragraph shall be
17 provided at no cost to the borrower.

18 (2) The licensee shall report each borrower's payment
19 performance to at least one consumer reporting agency that
20 compiles and maintains files on consumers on a nationwide basis,
21 upon acceptance as a data furnisher by that consumer reporting
22 agency. For purposes of this section, a consumer reporting agency
23 that compiles and maintains files on consumers on a nationwide
24 basis is one that meets the definition in Section 603(p) of the
25 federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any
26 licensee that is accepted as a data furnisher after admittance into
27 the program must report all borrower payment performance since
28 its inception of lending under the program, as soon as practicable
29 after its acceptance into the program, but in no event more than
30 six months after its acceptance into the program.

31 (A) The commissioner may approve a licensee for the program,
32 before that licensee has been accepted as a data furnisher by a
33 consumer reporting agency, if the commissioner has a reasonable
34 expectation, based on information supplied by the licensee, of both
35 of the following:

36 (i) The licensee will be accepted as a data furnisher, once it
37 achieves a lending volume required of data furnishers of its type
38 by a consumer reporting agency.

39 (ii) That lending volume will be achieved within the first six
40 months of the licensee commencing lending.

1 (B) Notwithstanding subparagraph (A), the commissioner shall
2 withdraw approval for pilot program participation from any
3 licensee that fails to become accepted as a data furnisher by a
4 consumer reporting agency within six months of commencing
5 lending under the pilot program.

6 (3) The licensee shall provide each borrower with the name of
7 the consumer reporting agency or agencies to which it will report
8 the borrower's payment history. A licensee that is accepted as a
9 data furnisher after admittance into the program shall notify its
10 borrowers, as soon as practicable following acceptance as a data
11 furnisher, regarding the name of the consumer reporting agency
12 or agencies to which it will report that borrower's payment history.

13 (4) (A) The licensee shall underwrite each loan to determine a
14 borrower's ability and willingness to repay the loan pursuant to
15 the loan terms, and shall not make a loan if it determines, through
16 its underwriting, that the borrower's total monthly debt service
17 payments, at the time of origination, including the loan for which
18 the borrower is being considered, and across all outstanding forms
19 of credit that can be independently verified by the licensee, exceed
20 50 percent of the borrower's gross monthly income.

21 (B) (i) The licensee shall seek information and documentation
22 pertaining to all of a borrower's outstanding debt obligations during
23 the loan application and underwriting process, including loans that
24 are self-reported by the borrower but not available through
25 independent verification. The licensee shall verify that information
26 using a credit report from at least one consumer reporting agency
27 that compiles and maintains files on consumers on a nationwide
28 basis or through other available electronic debt verification services
29 that provide reliable evidence of a borrower's outstanding debt
30 obligations.

31 (ii) Notwithstanding the verification requirement in
32 subparagraph (A), the licensee shall request from the borrower
33 and include all information obtained from the borrower regarding
34 outstanding deferred deposit transactions in the calculation of the
35 borrower's outstanding debt obligations.

36 (iii) The licensee shall not be required to consider, for purposes
37 of debt-to-income ratio evaluation, loans from friends or family.

38 (C) The licensee shall also verify the borrower's income that
39 the licensee relies on to determine the borrower's debt-to-income
40 ratio using information from either of the following:

1 (i) Electronic means or services that provide reliable evidence
2 of the borrower's actual income.

3 (ii) Internal Revenue Service Form W-2, tax returns, payroll
4 receipts, bank statements, or other third-party documents that
5 provide reasonably reliable evidence of the borrower's actual
6 income.

7 (5) The licensee shall notify each borrower, at least two days
8 prior to each payment due date, informing the borrower of the
9 amount due, and the payment due date. Notification may be
10 provided by any means mutually acceptable to the borrower and
11 the licensee. A borrower shall have the right to opt out of this
12 notification at any time, upon electronic or written request to the
13 licensee. The licensee shall notify each borrower of this right prior
14 to disbursing loan proceeds.

15 ~~(g)~~

16 (h) (1) Notwithstanding Sections 22311 to 22315, inclusive,
17 no person, in connection with, or incidental to, the making of any
18 loan made pursuant to this article, may offer, sell, or require the
19 borrower to contract for "credit insurance" as defined in paragraph
20 (1) of subdivision (a) of Section 22314 or insurance on tangible
21 personal or real property of the type specified in Section 22313.

22 (2) Notwithstanding Sections 22311 to 22315, inclusive, no
23 licensee, finder, or any other person that participates in the
24 origination of a loan under this article shall refer a borrower to any
25 other person for the purchase of "credit insurance" as defined in
26 paragraph (1) of subdivision (a) of Section 22314 or insurance on
27 tangible personal or real property of the type specified in Section
28 22313.

29 ~~(h)~~

30 (i) (1) No licensee shall require, as a condition of providing the
31 loan, that the borrower waive any right, penalty, remedy, forum,
32 or procedure provided for in any law applicable to the loan,
33 including the right to file and pursue a civil action or file a
34 complaint with or otherwise communicate with the commissioner
35 or any court or other public entity, or that the borrower agree to
36 resolve disputes in a jurisdiction outside of California or to the
37 application of laws other than those of California, as provided by
38 law. Any waiver by a borrower must be knowing, voluntary, and
39 in writing, and expressly not made a condition of doing business
40 with the licensee. Any waiver that is required as a condition of

1 doing business with the licensee shall be presumed involuntary,
2 unconscionable, against public policy, and unenforceable. The
3 licensee has the burden of proving that a waiver of any rights,
4 penalties, forums, or procedures was knowing, voluntary, and not
5 made a condition of the contract with the borrower.

6 (2) No licensee shall refuse to do business with or discriminate
7 against a borrower or applicant on the basis that the borrower or
8 applicant refuses to waive any right, penalty, remedy, forum, or
9 procedure, including the right to file and pursue a civil action or
10 complaint with, or otherwise notify, the commissioner or any court
11 or other public entity. The exercise of a person's right to refuse to
12 waive any right, penalty, remedy, forum, or procedure, including
13 a rejection of a contract requiring a waiver, shall not affect any
14 otherwise legal terms of a contract or an agreement.

15 (3) This subdivision shall not apply to any agreement to waive
16 any right, penalty, remedy, forum, or procedure, including any
17 agreement to arbitrate a claim or dispute, after a claim or dispute
18 has arisen. Nothing in this subdivision shall affect the enforceability
19 or validity of any other provision of the contract.

20 (i)

21 (j) This section shall not apply to any loan of a bona fide
22 principal amount of two thousand five hundred dollars (\$2,500)
23 or more as determined in accordance with Section 22251. For
24 purposes of this subdivision, "bona fide principal amount" shall
25 be determined in accordance with Section 22251.

26 ~~SECTION 1.~~

27 *SEC. 2.* Section 22372 of the Financial Code is amended to
28 read:

29 22372. (a) A finder may perform one or more of the following
30 services for a licensee at the finder's physical location for business:

31 (1) Distributing, circulating, using, or publishing preprinted
32 brochures, flyers, factsheets, or other written materials relating to
33 loans that the licensee may make or negotiate and that have been
34 reviewed and approved in writing by the licensee prior to their
35 being distributed, circulated, or published.

36 (2) Providing written factual information about loan terms,
37 conditions, or qualification requirements to a prospective borrower
38 that has been either prepared by the licensee or reviewed and
39 approved in writing by the licensee. A finder may discuss that

1 information with a prospective borrower in general terms, but may
2 not provide counseling or advice to a prospective borrower.

3 (3) Notifying a prospective borrower of the information needed
4 in order to complete a loan application without providing
5 counseling or advice to a prospective borrower.

6 (4) Entering information provided by the prospective borrower
7 on a preprinted or electronic application form or onto a
8 preformatted computer database without providing counseling or
9 advice to a prospective borrower.

10 (5) Assembling credit applications and other materials obtained
11 in the course of a credit application transaction for submission to
12 the licensee.

13 (6) Contacting the licensee to determine the status of a loan
14 application.

15 (7) Communicating a response that is returned by the licensee's
16 automated underwriting system to a borrower or a prospective
17 borrower.

18 (8) Obtaining a borrower's signature on documents prepared
19 by the licensee and delivering final copies of the documents to the
20 borrower.

21 (b) A finder that is licensed or regulated pursuant to this division,
22 Division 1.1 (commencing with Section 1000), Division 1.2
23 (commencing with Section 2000), Division 3 (commencing with
24 Section 12000), Division 5 (commencing with Section 14000),
25 Division 6 (commencing with Section 17000), Division 7
26 (commencing with Section 18000), Division 8 (commencing with
27 Section 21000), Division 10 (commencing with Section 23000),
28 or Division 20 (commencing with Section 50000) of this code;
29 Chapter 5 (commencing with Section 1621) of Part 2 of Division
30 1 of the Insurance Code; Chapter 1 (commencing with Section
31 5000) of Division 3 of the Business and Professions Code; is an
32 approved agent of a person licensed pursuant to Division 1.2
33 (commencing with Section 2000) of this code; or is a federally
34 regulated bank, thrift, or credit union, may additionally provide
35 any of the following services on behalf of the licensee for any loan
36 for which the finder performed finding activities:

37 (1) Disbursing loan proceeds to a borrower, if this method of
38 disbursement is acceptable to the borrower.

39 (A) Any loan disbursement made by a finder under this
40 subdivision shall be deemed made by the licensee on the date the

1 funds are disbursed or otherwise made available by the finder to
2 the borrower.

3 (B) A finder that disburses loan proceeds to a borrower shall
4 deliver or cause to be delivered to the borrower at the time loan
5 proceeds are disbursed a plain and complete receipt showing all
6 of the following:

7 (i) The date of disbursement.

8 (ii) The total amount disbursed.

9 (iii) The corresponding loan account ~~number~~ *identification*.

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

16 (2) Receiving loan payment or payments from the borrower, if
17 this method of payment is acceptable to the borrower.

18 (A) Any loan payment made by a borrower to a finder under
19 this subdivision shall be applied to the borrower’s loan and deemed
20 received by the licensee as of the date the payment is received by
21 the finder.

22 (B) A finder that receives loan payments under this subdivision
23 shall deliver or cause to be delivered to the borrower at the time
24 that the payment is made by the borrower, a plain and complete
25 receipt showing all of the following:

26 ~~(i) The date of payment.~~

27 *(i) The name of the finder.*

28 ~~(ii) The total payment amount made.~~ *received.*

29 *(iii) The date of payment.*

30 ~~(iii)~~

31 *(iv) The corresponding loan account number identification upon*
32 *which the payment is being applied.*

33 *(v) The loan balance prior to and following application of the*
34 *payment.*

35 *(vi) The amount of the payment that was applied to principal,*
36 *interest, and fees.*

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

39 ~~(viii)~~ (iv) The following statement, prominently displayed in a
40 type size equal to or greater than the type size used to display the

1 other items on the receipt: “If you have any questions about your
2 loan, now or in the future, you should direct those questions to
3 [name of licensee] by [insert at least two different ways in which
4 a borrower may contact the licensee].”

5 (C) A borrower who submits a loan payment to a finder under
6 this subdivision shall not be liable for any failure or delay by the
7 finder in transmitting the payment to the licensee.

8 (D) A finder that disburses or receives loan payments pursuant
9 to this subdivision shall maintain records of all disbursements
10 made and loan payments received for a period of at least two years
11 or until one month following the completion of a regular
12 examination by the commissioner, whichever is later.

13 (3) Providing any notice or disclosure required to be provided
14 to the borrower by the licensee.

15 (c) A finder shall not engage in ~~any~~ *either* of the following
16 activities:

17 (1) Providing counseling or advice to a borrower or prospective
18 borrower.

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

22 ~~(3) Interpreting or explaining the relevance, significance, or
23 effect of any of the marketing materials or loan documents the
24 finder provides to a borrower or prospective borrower.~~

25 (d) Any person who performs one or more of the following
26 activities is a broker within the meaning of Section 22004 rather
27 than a finder within the meaning of this section:

28 (1) Negotiating the price, length, or any other loan term between
29 a licensee and a prospective borrower.

30 (2) Advising either a prospective borrower or a licensee as to
31 any loan term.

32 (3) Offering information pertaining to a single prospective
33 borrower to more than one licensee, except that, if a licensee has
34 declined to offer a loan to a prospective borrower and has so
35 notified that prospective borrower in writing, the person may then
36 offer information pertaining to a single prospective borrower to
37 another licensee with which it has a finder’s agreement.

38 (4) Personally contacting or providing services to a borrower
39 or prospective borrower at any place other than the finder’s
40 physical location for business.

1 (e) A finder shall comply with all laws applicable to the licensee
2 that impose requirements upon the licensee for safeguards for
3 information security.

4 ~~SEC. 2.~~

5 *SEC. 3.* Section 22373 of the Financial Code is amended to
6 read:

7 22373. (a) At the time the finder receives or processes an
8 application for a program loan, the finder shall provide the
9 following statement to the applicant, on behalf of the licensee, in
10 no smaller than 10-point type, and shall ask the applicant to
11 acknowledge receipt of the statement in writing:
12

13 “Your loan application has been referred to us by [Name of
14 Finder]. We may pay a fee to [Name of Finder] for the successful
15 referral of your loan application. IF YOU ARE APPROVED FOR
16 THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR
17 LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP
18 WITH [NAME OF LICENSEE]. If you have any questions about
19 your loan, now or in the future, you should direct those questions
20 to [name of licensee] by [insert at least two different ways in which
21 a borrower may contact the licensee]. If you wish to report a
22 complaint about [Name of Finder] or [Name of Licensee] regarding
23 this loan transaction, you may contact the Department of Business
24 Oversight, ~~Division of Corporations at 1-866-ASK-CORP~~
25 ~~(1-866-275-2677), at 866-275-2677, or file your complaint online~~
26 ~~at www.corp.ca.gov.~~ *www.dbo.ca.gov.*”
27

28 (b) If the loan applicant has questions about the loan that the
29 finder is not permitted to answer, the finder shall make a good
30 faith effort to assist the applicant in making direct contact with the
31 lender before the loan is consummated. This good faith effort shall,
32 at a minimum, consist of assisting the applicant in communicating
33 with the lender ~~in real time via telephone, video chat, or instant~~
34 ~~messaging.~~ *licensee as soon as reasonably practicable, which shall*
35 *at a minimum include a “two-way communication.” For purposes*
36 *of this section, “two-way communication” includes telephone,*
37 *electronic mail, or another form of communication that allows the*
38 *applicant to communicate with the licensee.*

39 (c) *Using the policies developed pursuant to subdivision (f) of*
40 *Section 22370, the licensee shall ensure that a loan is not*

1 *consummated until the licensee has completed a “two-way*
2 *communication” with the applicant. Sending a voicemail or*
3 *electronic message to the applicant, without a prior or subsequent*
4 *response from the applicant, shall not constitute a “two-way*
5 *communication.”*

6 (e)

7 (d) 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 ~~SEC. 3.~~

14 SEC. 4. Section 22374 of the Financial Code is amended to
15 read:

16 22374. (a) A finder may be compensated by the licensee
17 pursuant to the written agreement between the licensee and the
18 finder, as described in Section 22376. Compensation may be paid
19 in accordance with a compensation schedule that is mutually agreed
20 to by the licensee and the finder.

21 (b) Notwithstanding subdivision (a), the compensation of a
22 finder by a licensee shall be subject to all of the following
23 requirements:

24 (1) No compensation shall be paid to a finder in connection with
25 a loan application unless that loan is consummated.

26 (2) No compensation shall be paid to a finder based upon the
27 principal amount of the loan.

28 (3) The total compensation paid by a licensee to a finder over
29 the life of a loan shall not exceed the sum of the origination fee
30 and interest charges paid by the borrower in connection with that
31 loan.

32 (4) Subject to the limitations set forth in paragraphs (1) to (3),
33 inclusive, the total compensation paid by a licensee to a finder
34 shall not exceed seventy dollars (\$70) per loan, whether paid at
35 the time of consummation, over installments, or in a manner
36 otherwise agreed upon by the licensee and the finder.

37 (5) The finder’s location for services under this article and other
38 information required by Section 22375 has been reported to the
39 commissioner and the finder has not been barred from providing
40 services at that location by the commissioner.

1 (c) No licensee shall, directly or indirectly, pass on to a borrower
2 any fee or other compensation, or any portion of any fee or other
3 compensation, that the licensee pays to a finder in connection with
4 that borrower's loan.

5 ~~SEC. 4.~~

6 *SEC. 5.* Section 22375 of the Financial Code is amended to
7 read:

8 22375. A licensee that utilizes the service of a finder shall do
9 all of the following:

10 (a) Notify the commissioner within 15 days of entering into a
11 contract with a finder, on a form acceptable to the commissioner,
12 regarding all of the following:

13 (1) The name, business address, and licensing details of the
14 finder and all locations at which the finder will perform services
15 under this article.

16 (2) The name and contact information for an employee of the
17 finder who is knowledgeable about, and has the authority to
18 execute, the contract governing the business relationship between
19 the finder and the licensee.

20 (3) The name and contact information for one or more
21 employees of the finder who are responsible for that finder's
22 finding activities on behalf of the licensee.

23 (4) A list of the activities the finder shall perform on behalf of
24 the licensee.

25 (5) Any other information requested by the commissioner.

26 (b) Pay an annual finder registration fee to the commissioner
27 in an amount to be established by the commissioner by regulation
28 for each finder utilized by the licensee.

29 (c) Submit an annual report to the commissioner including, for
30 each ~~finder, delinquency and default rates, number and dollar~~
31 ~~amount of late fees assessed to borrowers on consummated loans,~~
32 *finder, the information listed in paragraph (12) and subparagraph*
33 *(A) of paragraph (13) of subdivision (d) of Section 22380, and any*
34 *other information pertaining to each finder and the licensee's*
35 *relationship and business arrangements with each finder as the*
36 *commissioner may by regulation require. The information disclosed*
37 *to the commissioner for the report described in this subdivision is*
38 *exempted from any requirement of public disclosure by paragraph*
39 *(2) of subdivision (d) of Section 6254 of the Government Code.*

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 22377 of the Financial Code is amended to
3 read:

4 22377. (a) The commissioner may examine the operations of
5 each licensee and each finder to ensure that the activities of the
6 licensee and the finder are in compliance with this article. The
7 costs of the commissioner’s examination of each finder shall be
8 attributed to the commissioner’s examination of the licensee. Any
9 violation of this article by a finder or a finder’s employee shall be
10 attributed to the finance lender with whom it has entered into an
11 agreement for purposes of determining the licensee’s compliance
12 with this division.

13 (b) Upon a determination that a finder has acted in violation of
14 this article, or any implementing regulation, or upon a
15 determination that it would be warranted by the data reported to
16 the commissioner pursuant to subdivision (c) of Section 22375 for
17 any finder, the commissioner may disqualify a finder from
18 performing services under this article, bar a finder from performing
19 services at one or more specific locations of that finder, terminate
20 a written agreement between a finder and a licensee, and, if the
21 commissioner deems that action in the public interest, prohibit the
22 use of that finder by all licensees accepted to participate in the
23 pilot program.

24 (c) In addition to any other penalty allowed by law, the
25 commissioner may impose an administrative penalty up to two
26 thousand five hundred dollars (\$2,500) for violations of this article
27 committed by a finder.

28 ~~SEC. 6.~~

29 *SEC. 7.* No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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2 **CORRECTIONS:**
3 **Text—Pages 11 and 13.**
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