

Introduced by Senator Perata

February 15, 2000

An act to add Title 1.6G (commencing with Section 1789.50) to Part 4 of Division 3 of the Civil Code, relating to deferred deposit loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1501, as introduced, Perata. Deferred deposit loans.

Existing law governs the services provided by check cashers, including a requirement for registration with the Department of Justice. Existing law provides that a check casher may defer the deposit of a personal check, in an amount not to exceed \$300, for up to 30 days, pursuant to a written agreement that is required to include, among other items, the total amount of fees charged for the deferred deposit.

This bill would enact provisions to be known as the Deferred Deposit Loan Act and would define the purpose thereof.

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

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

1 SECTION 1. Title 1.6G (commencing with Section
2 1789.50) is added to Part 4 of Division 3 of the Civil Code,
3 to read:
4

1 TITLE 1.6G. DEFERRED DEPOSIT LOANS

2
3 CHAPTER 1. GENERAL PROVISIONS

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5 1789.50. This title shall be known and may be cited as
6 the Deferred Deposit Loan Act.

7 1789.51. (a) For purposes of this title, the following
8 definitions apply:

9 (1) Except as specified in subparagraphs (A) and (B),
10 “deferred deposit loan” means any arrangement in which
11 a person accepts a check and provides the drawer a
12 portion of the face amount of the check in cash and agrees
13 to hold the check pursuant to a written agreement for a
14 period of days prior to deposit or presentment. “Deferred
15 deposit loan” shall not be construed to apply to either of
16 the following:

17 (A) A retail seller engaged primarily in the business of
18 selling consumer goods, including consumables, to retail
19 buyers if that retail seller cashes checks or issues money
20 orders for a minimum flat fee not exceeding two dollars
21 (\$2) as a service to its customers that is incidental to its
22 main purpose or business.

23 (B) Deferred deposit loan agreements which are
24 entered into with a bank, savings and loan association,
25 credit union, or other similar state or federally regulated
26 financial institution that does not utilize an agency
27 relationship with a facilitator, as defined in paragraph (8).

28 (2) “Deferred deposit loan amount” means the
29 amount of cash proceeds provided to a consumer
30 pursuant to a deferred deposit loan, exclusive of any
31 interest, or administrative or other loan-related charges.

32 (3) “Licensee” means any person licensed by the
33 Department of Justice under the provisions of this title to
34 engage in deferred deposit loans, or any facilitator as
35 defined in paragraph (8). For purposes of this title, a
36 licensee includes any bank, savings and loan association,
37 credit union, or other state or federally regulated
38 financial institution.

39 (4) “Department” means the Department of Justice.



1 (5) “Person” means any natural person, firm,
2 partnership, association or corporation, or other entity
3 that makes a deferred deposit loan to a consumer in this
4 state or any facilitator as defined in this section.

5 (6) “Consumer” means any natural person who, singly
6 or jointly with another consumer, enters into a deferred
7 deposit loan.

8 (7) “Check” as used in this title means a negotiable
9 instrument as defined in Section 3104 of the Commercial
10 Code which is drawn on a bank and is to be payable on
11 demand at maturity of the deferred deposit loan.

12 (8) “Facilitator” means any person who facilitates,
13 enables, or acts as an agent for another person who makes
14 deferred deposit loans.

15 (9) “Principal” means a controlling person of an entity
16 subject to this title, including, but not limited to any
17 officer, director, general partner, or person owing or
18 controlling, directly or indirectly, 10 percent or more of
19 the outstanding interests or equity securities of the
20 applicant for a license, or the entity.

21 (10) “Affiliate” means any licensee or agent or
22 facilitator of a licensee that is under common ownership
23 or control of the licensee.

24 (11) “Finance charge” means any payment, charge,
25 fee, cost or expense, however denominated or expressed,
26 that a consumer contracts to pay for the privilege of
27 obtaining a deferred deposit loan. “Finance charge” does
28 not include the amounts, if any, for delinquency charges,
29 attorney’s fees, court costs or collection expenses.

30 (12) “Amount owed” means the sum of the finance
31 charge, and the deferred deposit loan amount.

32 (13) “Pay period” means the regular period for which
33 a consumer receives a payment of earned wages, as
34 provided in Chapter 1 (commencing with Section 200) of
35 Part 1 of Division 2 of the Labor Code.

36 (14) “Pay day” means the regular day on which a
37 consumer receives a payment of earned wages, as
38 provided in Chapter 1 (commencing with Section 200) of
39 Part 1 of Division 2 of the Labor Code.



1 (15) “Installment payment” means a partial payment
2 on a deferred deposit loan.

3 (16) “Installment payment term” means a period of
4 time for the consumer to make an installment payment,
5 that is equal to the consumer’s payroll period or 15 days,
6 whichever is greater. “Installment payment term” shall
7 in no event exceed 31 days.

8 (17) “Unpaid balance” means the difference between
9 the amount owed, and any and all installment payments
10 made.

11 (b) All provisions of this title apply to any facilitator,
12 as defined in this section.

