

Date of Hearing: June 24, 2019

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Monique Limón, Chair

SB 455 (Bradford) – As Amended May 17, 2019

SENATE VOTE: 38-0

SUBJECT: Financial Empowerment Fund: unbanked and underbanked populations

SUMMARY: Creates the Financial Empowerment Fund and authorizes the Commissioner of Business Oversight to award grants of up to \$100,000 per applicant to support financial education and financial empowerment programs, until January 1, 2025.

Specifically, **this bill:**

- 1) Establishes the Financial Empowerment Fund (FEF) in the State Treasury and directs the State Controller to transfer up to \$1 million annually to that fund. The source of funding for the FEF is fine and penalty revenue received by Department of Business Oversight (DBO) related to violations of the California Financing Law (CFL) and California Deferred Deposit Transaction Law (CDDTL). Moneys in the FEF are continuously appropriated to DBO for specified purposes.
 - a. Reimburses DBO for the administrative costs to enforce provisions of the CFL and CDDTL before transferring money to the FEF.
 - b. If DBO receives less than \$1 million from fine and penalty revenue net of the department's recovery of administrative costs, provides that the Controller shall only transfer the aggregate amount received.
 - c. Authorizes reimbursement to DBO for costs to administer the grant program.
- 2) Requires DBO to directly administer or contract with a third party to administer an application process for grants of up to \$100,000 per applicant for projects that must meet the following criteria:
 - a. Promote and enhance the economic security of consumers.
 - b. Adhere to the five principles of effective financial education described in the June 2017 report from the Consumer Financial Protection Bureau, "Effective financial education: Five principles and how to use them."
 - c. Include one or more specific outcome targets.
 - d. Include an evaluation component designed to measure and document the extent to which the project achieves its intended outcomes and increases consumers' financial well-being.
- 3) Requires an applicant to meet the following criteria to be eligible for a grant:

- a. The organization must be exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and is organized and operated exclusively for one or more purposes described in that section.
 - b. No part of the net earnings of the applicant may inure to the benefit of a private shareholder or individual.
- 4) Requires that a grantee shall only use grant moneys for the following programs and services for at-risk populations:
- a. Designing, developing, or offering, free of charge to consumers, classroom- or web-based financial education and empowerment content intended to help unbanked and underbanked consumers achieve, identify, and access lower cost financial products and services, establish or improve their credit, increase their savings, or lower their debt.
 - b. Providing individualized, free financial coaching to unbanked and underbanked consumers.
 - c. Designing, developing, or offering, free of charge to consumers, a financial product or service intended to help unbanked and underbanked consumers identify and access responsible financial products and financial services, establish or improve their credit, increase their savings, or lower their debt.
- 5) Requires each grantee to submit a report, in a form and by a date acceptable to the commissioner, documenting the specific purposes to which grant funds were allocated, documenting the number of individuals aided through use of the funds, providing quantitative results regarding the impact of the grant funding, and including any other information requested by the commissioner. Failure to submit a report renders a grant recipient ineligible for grant funding during the subsequent fiscal year.
- 6) Sunsets the program as of January 1, 2025.

EXISTING LAW:

- 1) Provides for the Department of Business Oversight (DBO) and authorizes DBO to implement policies and enforce laws related to financial services, including the California Financing Law (Financial Code 22000 et seq.) and the California Deferred Deposit Transaction Law (Financial Code Section 23000 et seq.), both of which are administered by the Division of Corporations within DBO.
- 2) Requires that all fees, reimbursements, assessments, and other money or amounts charged and collected under the laws administered by the Division of Corporations shall be deposited to the credit of the State Corporations Fund (Government Code Section 12895).
- 3) Provides that, notwithstanding any other provision of law, and except as provided, revenues derived from the assessment of fines and penalties by any state agency may not be expended, unless the Legislature specifically provides authority for the expenditure of these funds in the annual Budget Act or other legislation. Further provides that a fine or penalty is a charge imposed by an agency or department for wrongdoing, in excess of the cost of investigating,

processing, or prosecuting the conduct for which the charge is assessed, or the cost of collecting it (Government Code Section 13332.18).

- 4) Authorizes the Commissioner of Business Oversight (commissioner) to impose the following fines and penalties under the CFL and the CDDTL, as follows:
- a. Any CFL licensee or any person required to be licensed under the CFL is subject to an administrative fine of up to \$2,500 for any violation of the CFL or any rule or order issued pursuant to that law (Financial Code Section 22707.5).
 - b. Any person who willfully violates the CFL or any rule or order issued pursuant to the CFL is subject to a fine of up to \$10,000 upon conviction, as specified (Financial Code Section 22753).
 - c. Any person who violates any provision of the CDDTL or any rule or order issued pursuant to the CDDTL is liable for a civil penalty of up to \$2,500 per violation, as specified (Financial Code Section 23051).
 - d. Any CDDTL licensee or any person required to be licensed under the CDDTL is subject to an administrative penalty of up to \$2,500 for any violation of the CDDTL or any rule or order issued pursuant to that law (Financial Code Section 23058).

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will continuously appropriate up to \$1 million per year from the State Corporations Fund to the Financial Empowerment Fund. The bill will result in ongoing costs to DBO of approximately \$450,000 per year for additional personnel to create new procedures to administer the grant program, to review grant applications, and to review and analyze information to produce the report. These costs may be lower if DBO chooses to authorize a third party to administer the grant.

COMMENTS:

1) PURPOSE

This bill is sponsored by the Mission Asset Fund to support the work of organizations offering effective financial education and empowerment programs and services to unbanked and underbanked populations in the state.

According to the author:

Far too many Californians are unbanked or underbanked, have little to no credit history, and lack the educational empowerment to make sound financial decisions for their future. While there may be numerous financial products available, many are expensive or out of reach, ultimately leaving consumers to fend for themselves. SB 455 will help address this problem by providing reliable, trustworthy tools to consumers to help them improve their financial well-being.

2) BACKGROUND

According to the Financial Health Network (formerly CFSI), 17% of Americans are considered financially vulnerable as measured by the organization's U.S. Financial Health Pulse. Due to California's notoriously high housing costs, it is reasonable to assume that an even greater percentage of California families are struggling to cope financially. Although workplace instability and cost of living are primary drivers of a family's financial health, the financial products and services available to them are also a factor that can contribute to either improving or harming their financial well-being.

Many Californians do not have access to resources that can help them navigate their financial situations and the complex array of financial products and services in the market. While educators, policymakers, and financial service providers appear to agree that improving financial literacy is important, empirical research suggests that there is often little to no effect of financial literacy efforts on actual consumer behavior and financial well-being.¹

Acknowledging the limited effectiveness of legacy programs, the Consumer Financial Protection Bureau conducted research to determine what makes financial education effective. In its report, "Effective financial education: Five principles and how to use them," the Bureau identified five necessary components of successful financial education and empowerment programs:

- 1) know the individuals and families to be served;
- 2) provide actionable, relevant, and timely information;
- 3) improve key financial skills;
- 4) build on motivation; and
- 5) make it easy for people to make good decisions and follow through.

3) BUDGETARY CONSIDERATIONS

This bill requires the proposed Financial Empowerment Fund to be funded by fine and penalty revenue generated by DBO enforcement actions for violations of the CDDTL, which regulates payday lending, and the CFL, which regulates nondepository lending, including small-dollar consumer installment loans, mortgages, and commercial loans. Given that consumers who may be in the most need of financial empowerment programs are also more likely to use risky, high-cost financial products like payday loans and installment loans with interest rates of 100% or more, the proposed funding source is a logical nexus to the objectives of the grant program.

Fine and penalty revenue generated by DBO enforcement actions is unpredictable and lumpy. The table below shows the net amount of fines and penalties collected by DBO during the last three calendar years. While in some years the revenue may not be sufficient to fund the full \$1 million annual transfer proposed by this bill, there will be more than enough to transfer the full amount in other years.

¹ See Fernandes, Daniel & Lynch, John & G. Netemeyer, Richard. (2014). Financial Literacy, Financial Education, and Downstream Financial Behaviors. *Management Science*. 10.1287/mnsc.2013.1849.

| | 2016 | 2017 | 2018 |
|--------------|--------------------|------------------|---------------------|
| CFL | \$1,390,000 | \$532,000 | \$1,216,000 |
| CDDTL | \$0 | \$5,500 | \$41,885,000 |
| Total | \$1,390,000 | \$537,500 | \$43,101,000 |

Additionally, the most recent state budget projects the State Corporations Fund to have a fund balance of \$88 million at the end of the current fiscal year, and there is no budgeted use of fund balance in fiscal year 2019-2020.

The bill continuously appropriates moneys in the FEF to DBO for purposes of funding the grant program. The continuous appropriations is intended to ensure that DBO's ability to award grants is not dependent on an annual Budget Act appropriation and provide greater assurance to nonprofit organizations that grant funding will be available.

4) IS \$1 MILLION SUFFICIENT GIVEN THE SIZE OF THE PROBLEM?

Based on the 17% of Americans considered financially vulnerable by Financial Health Network's U.S. Financial Health Pulse, it is reasonable to assume that at least 7 million Californians would greatly benefit from effective financial education and empowerment programs. This bill contemplates a modest initial investment in financial education and empowerment programs from the state government. Currently, nonprofits that deliver these programs rely primarily on private donations with significantly smaller support from local governments in heavily populated areas of the state, like San Francisco and Los Angeles. Committee staff is not aware of any efforts by the state government to deliver these programs directly to residents of the state or to build capacity of nonprofits to serve a greater number of clients.

The Legislature may consider increasing the investment in future years. This bill requires grantees to provide quantitative results regarding the impact of grant funding, and DBO is required to post a summary of these reports on the department's website. If the program appears to generate significant benefits for California residents, the Legislature may decide to revisit the program prior to the sunset date of January 1, 2025, and could then decide whether to increase the funding into the program.

REGISTERED SUPPORT / OPPOSITION:

Support

- Mission Asset Fund (Sponsor)
- Building Skills Partnership
- California Association Of Micro Enterprise Opportunity
- California Bankers Association
- California Low-Income Consumer Coalition
- California Reinvestment Coalition
- Canal Alliance
- Center for Responsible Lending
- City And County Of San Francisco - Treasurer's Office
- City Of Long Beach

City Of Oakland
Coalition For Humane Immigrant Rights (CHIRLA)
EARN
Housing And Economic Rights Advocates
La Hermandad
Lift Los Angeles
Los Angeles County Department Of Consumer And Business Affairs
My Path
New Economics For Women
Opportunity Fund
Peninsula Family Service
Rubicon Programs
UnidosUS
Western Center On Law And Poverty

Opposition

None received.

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