Date of Hearing: January 11, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Matthew Dababneh, Chair
AB 268 (Dababneh) – As Amended January 4, 2016

SUBJECT: California Finance Lenders Law: violations

SUMMARY: Requires the Commissioner of the Department of Business Oversight (DBO) to examine every person engaged in the business of a finance lender or broker for compliance with the California Finance Lenders Law (CFLL) at least every 48 months, or as often as the commissioner deems necessary and appropriate.

EXISTING LAW:

1) Provides for the CFLL, administered by DBO, which authorizes the licensure of finance lenders, who may make secured and unsecured consumer and commercial loans (Financial Code Sections 22000 et seq.). The following are the key rules applied to consumer loans made pursuant to the CFLL:

   a) CFLL licensees who make consumer loans under $2,500 are capped at interest rates which range from 12% to 30% per year, depending on the unpaid balance of the loan (Sections 22303 and 22304). Administrative fees are capped at the lesser of 5% of the principal amount of the loan or $50 (Section 22305).

   b) In addition to the requirements in "a" above, CFLL licensees who make consumer loans under $5,000 are prohibited from imposing compound interest or charges (Section 22309); are limited in the amount of delinquency fees they may impose (Section 22320.5; delinquency fees are capped at a maximum of $10 on loans 10 days or more delinquent and $15 on loans 15 days or more delinquent); are required to prominently display their schedule of charges to borrowers (Section 22325); are prohibited from splitting loans with other licensees (Section 22327); are prohibited from requiring real property collateral (Section 22330), and are limited to a maximum loan term of 60 months plus 15 days (Section 22334).

   c) In addition to the requirements in "a" and "b" above, CFLL licensees who make consumer loans under $10,000 are limited in their ability to conduct other business activities on the premises where they make loans (Section 22154); must require loan payments to be paid in equal, periodic installments (Section 22307); and must meet certain standards before they may sell various types of insurance to the borrower (Sections 22313 and 22314).

   d) Generally speaking, the terms of loans of $10,000 or above are not restricted under the CFLL.

2) Until January 1, 2018, provides for the Pilot Program for Increased Access to Responsible Small Dollar Loans within the CFLL (Financial Code Section 22365 et seq.). Licensees accepted into the pilot program are required to follow the CFLL, but are allowed to charge slightly higher interest rates, origination fees, and late fees to borrowers than is allowed under the CFLL, as long as they adhere to specified underwriting criteria, offer DBO-approved credit education to their borrowers, report borrower payment history to at least one major credit bureau, provide specified disclosures to borrowers, and follow other rules intended to protect consumers.

Loans made under the pilot program must have principal amounts of between $300 and $2,500. Interest rates are capped at 36% on principal amounts up to $1,000 and at 32% on principal amounts between $1,001 and $2,499. Origination fees are capped at the lesser of 7% or $90 on the first loan to a borrower; lesser of 6% or $75 on the second and subsequent loans to a borrower. Late fees are capped at $14 for payments that are at least seven days late or at $20 for payments that are at least fourteen days late (lenders must choose between these two options). Actual insufficient funds fees may also be charged. Minimum loan lengths are 90 days for loans with principal amounts less than $500, 120 days for loans with principal amounts between $500 and $1,499, and 180 days for loans between $1,500 and $2,500

3) Allows the commissioner, for purposes of discovering of violations of the CFLL to investigate the loans and business of the licensee and examine the books, accounts, records and files used in the business.

FISCAL EFFECT: Unknown

COMMENTS:

AB 268 is the first step in the author's push to reform the CFLL by bringing the CFLL in line with other laws administered by DBO. AB 268 establishes a minimum time frame of at least once every 48 months in which CFLL licensees must be examined by the commissioner and clarifies that the commissioner may examine licensees at any time if necessary. This is identical authority for the commissioner that is in the Residential Mortgage Lending Act, Financial Code Section 50302.

This bill is a vehicle for additional reforms that result from stakeholder meetings that started early last year. Last year, the author brought together varied stakeholder groups to discuss revisions to the CFLL. Several large stakeholder meetings occurred that included discussions on the existing consumer loan market in California and potential recommendations for changes to the CFLL that would bring transparency and fairness to the consumer loan market in California. The Consumer Financial Protection Bureau released a framework to regulation short-term loan products nationwide that will significantly alter California's lending statutes. The final rules on these loan products are set to be released in stages. According to the latest information available, the first round of rules covering payday loans and deposit advance products are set to be released sometime during February of 2016. The rules for installment loans and vehicle title loans are set for release September of 2016.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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