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SB-235 Small dollar loans: finder duties and compensation. (2015-2016)

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Senate Bill No. 235

CHAPTER 505

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

[Approved by Governor October 05, 2015. Filed with Secretary of State October 05, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 235, 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 for certain services pursuant to a schedule that is mutually agreed to by the licensee and the finder, not to exceed \$65 per loan, plus \$2 per payment received by the finder on behalf of the licensee for the duration of the loan when the finder receives borrower loan payments on the licensee's behalf, as specified. The bill would require, if a loan applicant has questions that the finder is not permitted to answer, the finder to assist an applicant 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 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22370 of the Financial Code is amended to read:

22370. (a) Any loan made pursuant to this section shall comply with the following requirements:

(1) The loan shall be unsecured.

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

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

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

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

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

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

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

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

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

(b) As an alternative to the charges authorized by Section 22303 or 22304, a licensee approved by the commissioner to participate in the program may contract for and receive charges for a loan made pursuant to this section at an annual simple interest rate not to exceed the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The licensee shall develop and implement policies and procedures designed to respond to questions raised by applicants and borrowers regarding their loans, including those involving finders, and to address customer complaints as soon as reasonably practicable.

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

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

(2) The licensee shall report each borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, upon acceptance as a data furnisher by that consumer reporting agency. For purposes of this section, a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis is one that meets the definition in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any licensee that is accepted as a data furnisher after admittance into the program must report all borrower payment

performance since its inception of lending under the program, as soon as practicable after its acceptance into the program, but in no event more than six months after its acceptance into the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) (1) No licensee shall require, as a condition of providing the loan, that the borrower waive any right, penalty, remedy, forum, or procedure provided for in any law applicable to the loan, including the right to file and pursue a civil action or file a complaint with

or otherwise communicate with the commissioner or any court or other public entity, or that the borrower agree to resolve disputes in a jurisdiction outside of California or to the application of laws other than those of California, as provided by law. Any waiver by a borrower must be knowing, voluntary, and in writing, and expressly not made a condition of doing business with the licensee. Any waiver that is required as a condition of doing business with the licensee shall be presumed involuntary, unconscionable, against public policy, and unenforceable. The licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not made a condition of the contract with the borrower.

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

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

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

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

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

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

(2) Providing written factual information about loan terms, conditions, or qualification requirements to a prospective borrower that has been either prepared by the licensee or reviewed and approved in writing by the licensee. A finder may discuss that information with a prospective borrower in general terms, but may not provide counseling or advice to a prospective borrower.

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

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

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

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

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

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

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

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

(A) Any loan disbursement made by a finder under this subdivision shall be deemed made by the licensee on the date the funds are disbursed or otherwise made available by the finder to the borrower.

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

- (i) The date of disbursement.
- (ii) The total amount disbursed.
- (iii) The corresponding loan account identification.
- (iv) The following statement, prominently displayed in a type size equal to or greater than the type size used to display the other items on the receipt: "If you have any questions about your loan, now or in the future, you should direct those questions to [name of licensee] by [insert at least two different ways in which a borrower may contact the licensee]."

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

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

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

- (i) The name of the finder.
- (ii) The total payment amount received.
- (iii) The date of payment.
- (iv) The corresponding loan account identification upon which the payment is being applied.
- (v) The loan balance prior to and following application of the payment.
- (vi) The amount of the payment that was applied to principal, interest, and fees.
- (vii) The type of payment, such as cash, automated clearing house (ACH) transfer, check, money order, or debit card.
- (viii) The following statement, prominently displayed in a type size equal to or greater than the type size used to display the other items on the receipt: "If you have any questions about your loan, now or in the future, you should direct those questions to [name of licensee] by [insert at least two different ways in which a borrower may contact the licensee]."

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

(D) A finder that disburses or receives loan payments pursuant to this subdivision shall maintain records of all disbursements made and loan payments received for a period of at least two years or until one month following the completion of an examination of the licensee by the commissioner, whichever is later. The commissioner shall determine when an examination is complete.

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

(c) A finder shall not engage in either of the following activities:

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

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

- (1) Negotiating the price, length, or any other loan term between a licensee and a prospective borrower.
- (2) Advising either a prospective borrower or a licensee as to any loan term.

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

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

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

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

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

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

(b) If the loan applicant has questions about the loan that the finder is not permitted to answer, the finder shall make a good faith effort to assist the applicant in making direct contact with the lender before the loan is consummated. This good faith effort shall, at a minimum, consist of assisting the applicant in communicating with the licensee as soon as reasonably practicable, which shall at a minimum include a "two-way communication." For purposes of this section, "two-way communication" includes telephone, electronic mail, or another form of communication that allows the applicant to communicate with the licensee.

(c) Using the policies developed pursuant to subdivision (f) of Section 22370, the licensee shall ensure that a loan is not consummated until the licensee has completed a "two-way communication" with the applicant. Sending a voicemail or electronic message to the applicant, without a prior or subsequent response from the applicant, shall not constitute a "two-way communication."

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

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

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

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

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

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

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

(4) Subject to the limitations set forth in paragraphs (1) to (3), inclusive, the total compensation paid by a licensee to a finder for the services set forth in subdivision (a) of Section 22372 shall not exceed sixty-five dollars (\$65) per loan, whether paid at the time of consummation, over installments, or in a manner otherwise agreed upon by the licensee and the finder, plus two dollars (\$2) per payment received by the finder on behalf of the licensee for the duration of the loan, when the finder receives borrower loan payments on the licensee's behalf in accordance with subdivision (b) of Section 22372.

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

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

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

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

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

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

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

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

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

(5) Any other information requested by the commissioner.

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

(c) Submit an annual report to the commissioner including, for each finder, the information listed in paragraph (12) and subparagraph (A) of paragraph (13) of subdivision (d) of Section 22380, and any other information pertaining to each finder and the licensee's relationship and business arrangements with each finder as the commissioner may by regulation require. The information disclosed to the commissioner for the report described in this subdivision is exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code.

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

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

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

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

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