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**AB-1636 California Finance Lenders Law: California Deferred Deposit Transaction Law.** (2017-2018)

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**Assembly Bill No. 1636**

**CHAPTER 329**

An act to amend Sections 22715 and 23026 of the Financial Code, relating to the Department of Business Oversight.

[ Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1636, Aguiar-Curry. California Finance Lenders Law: California Deferred Deposit Transaction Law.

(1) Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight.

Existing law requires each finance lender and broker licensee to file an annual report with the commissioner giving relevant information concerning the business and operations conducted by the licensee within the state during the preceding calendar year for each licensed place of business. Existing law authorizes the commissioner to, by order, summarily suspend or revoke the license of any licensee if that person fails to file that report within 10 days after notice by the commissioner that the report is due and not filed.

This bill would authorize the commissioner, except in certain circumstances, to impose, by order, a penalty on any licensee who fails to either provide the commissioner with any report required by law or any material information required by the commissioner to be included in a report. The bill would prohibit the penalty from exceeding \$100 for each business day the report or information is overdue for the first 5 business days and thereafter from exceeding \$500 for each day the report or information is overdue, not to exceed \$25,000 in the aggregate. The bill would specify the due date for these penalties under specified circumstances. The bill would authorize a licensee ordered to pay the penalty to request in writing a hearing to challenge that order and would require that hearing to be held under specified administrative proceedings.

(2) Existing law, the California Deferred Deposit Transaction Law, requires each licensee to file a specified annual report with the Commissioner of Business Oversight and requires the report to be kept confidential. Existing law requires the annual consolidated report to be prepared by the commissioner and made available to the public.

This bill would instead require those annual reports to be made available to the public for inspection, except as specified, and would also require the reports to include any other information reasonably required by the commissioner.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

**SECTION 1.** Section 22715 of the Financial Code is amended to read:

**22715.** (a) The commissioner may by order summarily suspend or revoke the license of any licensee if that person fails to file the report required by Section 22159 within 10 days after notice by the commissioner that the report is due and not filed. If, after an order is made, a request for hearing is filed in writing within 30 days and the hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date.

(b) (1) Subject to paragraph (2), the commissioner may impose, by order, a penalty on any licensee who does not do, within the time specified in any written demand of the commissioner, either of the following:

(A) Make and file with the commissioner any report required by law.

(B) Furnish any material information required by the commissioner to be included in any report required by law.

(2) A penalty may not be imposed on a licensee pursuant to this subdivision in connection with a report or information required to be submitted by a licensee if either:

(A) The commissioner requires information from the licensee pursuant to subdivision (a) of Section 22159 that was not required the prior year and the licensee is notified about the requirement to submit that new information less than 90 days before the information is due to the commissioner.

(B) The commissioner requires the licensee to submit information pursuant to subdivision (b) of Section 22159 and the licensee is notified about the requirement to submit that information less than 90 days before the information is due to the commissioner.

(3) The amount of the penalty imposed pursuant to this subdivision shall not exceed one hundred dollars (\$100) for each business day for the first five business days the report or information is overdue, and thereafter shall not exceed five hundred dollars (\$500) for each business day the report or information is overdue, not to exceed twenty-five thousand dollars (\$25,000) in the aggregate.

(c) If an order has been made under subdivision (b), and a request for a hearing is filed in writing within 30 days of the date of service of the order by the licensee to whom the order was directed, a hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. At the hearing, the commissioner shall have all the powers granted under that chapter.

(d) If the licensee fails to file a written request for a hearing within 30 days of the date of service of the order, the order imposing the penalty shall be deemed a final order of the commissioner, and the penalty shall be paid within five business days.

(e) If a hearing is requested, the penalty shall be paid within five business days after the effective date of any decision in the case ordering payment to be made.

**SEC. 2.** Section 23026 of the Financial Code is amended to read:

**23026.** On or before March 15 of each year, beginning March 2006, each licensee shall file an annual report with the commissioner pursuant to procedures that the commissioner shall establish, giving the relevant information that the commissioner reasonably requires concerning the business and operations conducted by the licensee within the state during the preceding calendar year for each licensed place of business. The licensee's annual reports filed pursuant to this section shall be made available to the public for inspection, except, upon request in the annual report to the commissioner, the balance sheet contained in the annual report of a sole proprietor or any other nonpublicly traded persons. "Nonpublicly traded person," for purposes of this section, means persons with securities owned by 35 or fewer individuals. The annual consolidated report shall be prepared by the commissioner and made available to the public. For the previous calendar year, these reports shall include the following and any other information the commissioner reasonably requires:

(a) The total number and dollar amount of deferred deposit transactions made by the licensee.

(b) The total number of individual customers who entered into deferred deposit transactions.

(c) The minimum, maximum, and average amount of deferred deposit transactions.

(d) The average annual percentage rate of deferred deposits.

(e) The average number of days of deferred deposit transactions.

(f) The total number and dollar amount of returned checks.

(g) The total number and dollar amount of checks recovered.

(h) The total number and dollar amount of checks charged off.

**SEC. 3.** The Legislature finds and declares that Section 2 of this act, which amends Section 23026 of the Financial Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to allow the Department of Business Oversight to accomplish its goals, it is imperative to protect the interests of those persons submitting specific balance sheet information to the department to ensure that the sensitive business information that this act requires is protected as confidential information.