

STATEMENT OF REASONS
WHY CHANGES IN THE REGULATIONS UNDER
THE CHECK SELLERS, BILL PAYORS AND PRORATERS LAW
ARE CHANGES WITHOUT REGULATORY EFFECT

As required by Section 100 of the rules of the Office of Administrative Law, the Commissioner of Corporations ("Commissioner") sets forth below the reasons for the proposed deletion of Sections 1772.1 and 1782 and amendment of Sections 1781 and 1790.1, Chapter 3, Title 10, California Code of Regulations.

Under the Check Sellers, Bill Payers and Proraters Law, the Commissioner of Corporations ("Commissioner") regulates the licensing and regulation of check sellers (persons who sell checks or money orders to the public), bill payers (persons who, as an agent and for a fee, accept funds from the public to pay bills, e.g., PG&E bills) and proraters (persons who either contract with delinquent debtors and intercede with creditors to settle debts [general prorater] or act as a business agent or manager contacting with an individual to pay non-delinquent bills [special prorater]).

The Commissioner has reviewed the rules under the Check Sellers, Bill Payers and Proraters Law and makes the following nonsubstantive changes:

Section 1772.1 requires all check sellers, and general and special proraters to be California corporations. The Commissioner proposes repealing this section because it duplicates the requirements in Financial Code Section 12200.1 and conflicts with Financial Code Section 12200.2. Financial Code Section 12200.1 specifically excludes business agents or special proraters from this requirement. Section 12200.2 specifically authorizes an individual to hold a license as a business agent or special prorater. This repeal is necessary to remove a conflict with Financial Code Sections 12200.1 and 12200.2.

Section 1781 requires every check seller to conduct business using his or her true name, unless he or she has complied with the specific provisions the Business and Professions Code. Any applicant who conducts business under a fictitious business name must file a certificate of the county clerk, showing compliance with the Business and Professions Code provisions. The Commissioner proposes deleting the first sentence of this rule because it duplicates Financial Code Section 12300.2. The requirement that an applicant file a certificate of the county clerk is being retained to ensure that an applicant conducting business under a fictitious business name is in compliance with Chapter 5 (commencing with section 17900) of Part 3 of the Business and Professions Code.

A minor grammatical change is made to Section 1790.1.

As these changes are considered nonsubstantive because they merely remove duplicative and/or unnecessary language from the Commissioner's rules.