

**DEPARTMENT OF CORPORATIONS***Supporting a Fair and Secure Financial Services Marketplace for all Californians*

**Jan Lynn Owen**  
**Commissioner of Corporations**  
**Sacramento, California**

May 29, 2013

**INVITATION FOR COMMENTS ON PROPOSED RULEMAKING UNDER THE  
CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW  
(PRO 04/08)**

**BACKGROUND**

The Department of Corporations licenses and regulates deferred deposit originators, commonly known as payday lenders, under the California Deferred Deposit Transaction Law (Financial Code section 23000 et seq.). Only deferred deposit originators who are licensed by the Department of Corporations may make deferred deposit transactions in California.

The Department of Corporations is considering changes to regulations that impact deferred deposit originators, and in accordance with Government Code sections 11346, subdivision (b), and 11346.45, seeks comments from interested parties and those who would be subject to the proposed regulations, prior to the Department of Corporations initiating notice of a proposed rulemaking action.

The Department of Corporations is seeking comments on amendments to Sections 2025 and 2026, and adoption of Sections 2022, 2023, 2023.1, 2023.2, 2024, 2030.1, 2030.20, 2030.21, 2030.21.1, 2030.22, 2030.23, 2030.24, 2030.25, 2030.40, 2030.41, 2030.42, 2030.43, 2030.44, 2030.45, 2030.46, 2030.47, 2030.48, 2030.49, 2030.50, 2030.51, 2030.60, 2030.61, 2030.62, and 2030.80 to Title 10 of the California Code of Regulations.

**REASON FOR CHANGES TO THE REGULATIONS**

Effective December 31, 2004, the Legislature transferred jurisdiction over the activities of deferred deposit originators from the Department of Justice to the Department of Corporations. The legislation effectuating the transfer of oversight of deferred deposit originators to the Department of Corporations contained a statutory requirement that the Commissioner of Corporations (Commissioner) submit a report on December 1, 2007, to the Governor and the Legislature regarding implementation of the Department of Corporations' jurisdiction over the industry, including common business practices, growth, trends and advertising practices of the industry and any other information the Commissioner deems necessary to inform the Governor and Legislature concerning potential legislation that may be necessary to protect California consumers (Financial Code section 23057).

The Department of Corporations' report entitled *Report to the Governor and the Legislature, California Deferred Deposit Transaction Law, December 2007*, recommended changes to the California Deferred Deposit Transaction Law to better

protect consumers by improving regulatory oversight of the industry and strengthening the enforcement powers of the Department of the Corporations. Many of the recommendations in the report may be implemented through rulemaking, while others require a statutory amendment. The changes to the regulations under consideration by the Department of Corporations include many but not all of the recommendations from the report.

The changes being considered also include amendments needed to clarify certain requirements and regulate activities that have evolved since enactment of the law such as the origination of deferred deposit transactions over the Internet, prepaid debit cards being offered to customers in conjunction with a deferred deposit transaction, and digital and other technological developments in banking and commerce that have changed the way consumers obtain and repay their financial obligations.

### INVITATION

In accordance with Government Code sections 11346, subdivision (b), and 11346.45, the Department of Corporations seeks to involve parties who would be subject to the regulations and other interested parties in discussions regarding the proposed regulations. The Commissioner invites interested parties to review the accompanying draft text of proposed regulatory requirements for deferred deposit originators and provide comments.

### TIME FOR COMMENTS

The Department of Corporations is providing the attached text of draft regulations to interested parties, and invites interested parties to submit comments on these documents by August 16, 2013. Comments from interested persons will assist the Department of Corporations in determining whether amendments to regulations under the California Deferred Deposit Transaction Law are necessary and appropriate, and achieve the regulatory objectives in the most efficient and effective manner.

This solicitation for comments from interested parties is not a proposed rulemaking action under Government Code section 11346, and the public will have additional opportunity to comment on proposed changes if, after consideration of the comments from interested parties, the Department of Corporations proceeds with a notice of a proposed rulemaking action.

### WHERE TO SUBMIT COMMENTS

You may submit comments by any of the following means:

#### Electronic

Comments may be submitted electronically to [regulations@corp.ca.gov](mailto:regulations@corp.ca.gov). Please identify the comments as PRO 04/08.

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Mail

California Department of Corporations  
Office of Legislation and Policy  
Attn: Karen Fong (PRO 04/08)  
1515 K Street, Suite 200  
Sacramento, CA 95814-4052

Fax

(916) 322-5875

CONTACT PERSONS

Questions regarding this invitation for comments may be directed to Peggy Fairman, Senior Corporations Counsel, at 916-324-5217 or [Peggy.Fairman@corp.ca.gov](mailto:Peggy.Fairman@corp.ca.gov).