

SUMMARY OF PROPOSED REGULATORY CHANGES UNDER THE CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW

The Department of Corporations (Department) licenses and regulates deferred deposit originators, commonly known as payday lenders, under the California Deferred Deposit Transaction Law. The Department is considering changes to regulations under the California Deferred Deposit Transaction Law. Before making any changes, the Department invites comments from interested parties and those who would be subject to the regulations.

The proposed changes would provide better protection for consumers by improving regulatory oversight of the industry and strengthening the enforcement powers of the Department. The proposed changes would also modernize the California Deferred Deposit Transaction Law by regulating certain activities that have evolved since enactment of the law, including the origination of deferred deposit transactions over the Internet, and digital and other technological developments in banking and commerce that have changed the way consumers obtain and repay their financial obligations. The significant changes being proposed to the regulations under the California Deferred Deposit Transaction Law include:

- Defining a deferred deposit originator and an employee for purposes of clarifying licensure under the California Deferred Deposit Transaction Law.
- Prohibiting a licensee from transferring or renting out a license or business location to another as a separate business from the licensee.
- Adopting recordkeeping requirements concerning paper checks, electronic transfers involving a customer's bank account and licensee-offered bank-issued prepaid debit cards.
- Imposing a continuing duty on a licensee to notify the Department of any violations of the California Deferred Deposit Transaction Law, similar laws of other states or the federal government, and criminal actions.
- Adopting provisions concerning the disbursement of proceeds to customers and the repayment of transactions by customers.
- Establishing requirements for a licensee to conduct deferred deposit transactions over the Internet.
- Providing customers with the right to request an extension of time to pay and a payment plan, and further providing that a licensee is not required to provide either.
- Prohibiting simultaneous transactions to the same customer by establishing a presumption against a licensee having common ownership with another deferred deposit originator and prohibiting the licensee from entering into a transaction with a customer of the other deferred deposit originator.
- Adopting rules on electronic transfers made by a licensee from a customer's bank account.
- Prohibiting a licensee from applying the proceeds from a customer's cashed check or other transaction, service or product offered to the customer by the licensee, against an outstanding deferred deposit transaction.

- Authorizing a licensee to offer to a customer a bank-issued prepaid debit card for purposes of disbursing proceeds and allowing the customer to use the card to repay that same transaction, and adopting regulatory and recordkeeping requirements concerning a licensee's use of these cards.
- Establishing factors the Department may consider in assessing administrative or civil penalties against licensees and persons subject to the California Deferred Deposit Transaction Law.

Interested parties are invited to review the draft text of the proposed regulatory changes concerning deferred deposit originators and provide comments to the Department by August 16, 2013. Comments may be submitted by mail, fax or electronically as provided in the notice of invitation for comments. The draft text of the proposed changes and the notice are available at www.corp.ca.gov.