



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • ACTING COMMISSIONER **Christopher S. Shultz**

IN REPLY REFER TO
FILE NO: PRO 02-21

August 18, 2021

INVITATION FOR COMMENTS ON PROPOSED RULEMAKING
UNDER THE CALIFORNIA CONSUMER FINANCIAL PROTECTION LAW:
COMMERCIAL FINANCING TO SMALL BUSINESSES, NONPROFITS, AND FAMILY FARMS
(PRO 02-21)

BACKGROUND

On September 25, 2020, Governor Newsom signed AB 1864 (Chapter 157, Statutes of 2020), establishing the California Consumer Financial Protection Law (“CCFPL”) under Division 24 of the Financial Code (Fin. Code, § 90000 et seq.). On February 4, 2021, the Department of Financial Protection and Innovation (“Department”) sought comments from interested parties regarding the implementation of AB 1864. In response to initial comments, the Department is developing draft language to implement various aspects of CCFPL, including the draft text accompanying this invitation for comments. Subdivision (e) of Financial Code section 90009 of the CCFPL authorizes the Department to define, by regulation, unfair, deceptive, and abusive acts and practices in connection with the offering or providing of commercial financing or other financial products and services to small business recipients, nonprofits, and family farms. Prior to publishing a notice of rulemaking, the Department invites interested parties, including those who would be subject to the proposed regulations, to comment on the accompanying draft language implementing section 90009(e) of the CCFPL.

INVITATION FOR COMMENTS

The Department seeks input from interested parties on draft language implementing section 90009, subdivision (e) of the CCFPL.

If an interested party is recommending proceeding in a manner that does not appear in the draft text, the Department requests the inclusion of the following information, to the extent known:

- Explain the need for the recommended rule, including data to substantiate the need.
- Provide an explanation of the costs and benefits of the recommended rule.
- Provide sample text of the recommended rule.

- Explain whether other businesses are subject to the same rule and why the rule is appropriate under the CCFPL.

In addition to input on the draft language, the Department seeks comments from interested parties on the potential economic impact on businesses that would be affected by the draft language, as providers subject to compliance with the draft language or as small business consumers of financial products and services. In providing the potential economic impact, the Department seeks the following information:

1. Whether the draft language impacts small businesses, where the small business is the provider of financial products and services, and where the small business is the consumer of financial products and services (generally a business with annual gross receipts of less than \$2 million, that is independently owned and operated, not dominant in its field, and not a financial institution).
2. Whether the draft language impacts California competitiveness.
3. The total dollar impact of the draft language, including costs and savings.
4. The total number of businesses impacted by the draft language, and the number or percentage that are small businesses.
5. Whether the draft language will result in the creation or elimination of businesses in this state, and the numbers of each.
6. Whether the draft language will affect the ability of California businesses to compete with other states by making it more costly to provide services here.
7. Whether the draft language will provide benefits, including but not limited to cost savings, to small business consumers.
8. Whether the draft language will result in the creation or elimination of jobs in this state, and the numbers of each.
9. Whether the draft language will result in the expansion of businesses currently doing business in this state.
10. Whether the draft language provides benefits to the health and welfare of California residents, worker safety, and the state's environment.
11. The total statewide dollar costs that businesses may incur complying with this draft language.
12. The initial costs for a typical business to comply with the draft language.
13. The annual ongoing costs for a typical business to comply with the draft language.
14. Whether any other economic costs may occur from the draft language, beyond the costs to a typical business.
15. The annual costs a typical business may incur to comply with the reporting requirement in the draft language, including the programming, recordkeeping, reporting, and any other paperwork.

16. Whether the draft language duplicates any other reporting requirements.
17. Whether any alternative to the draft language will provide the same protections for small businesses and the same or similar data on market activity in this state, at a lower cost or burden to business impacted by the draft language.
18. Whether any alternative to the draft language would lessen any adverse impact on small business.
19. The consequences of the draft language on those impacted.

TIME FOR COMMENTS

The Commissioner invites interested parties to submit comments by **September 17, 2021**.

WHERE TO SUBMIT COMMENTS

You may submit comments by any of the following means:

Electronic

Comments may be submitted electronically to regulations@dfpi.ca.gov. Include "PRO 02-21" in the subject line and copy Colleen Monahan at colleen.monahan@dfpi.ca.gov.

Mail

Department of Financial Protection and Innovation
Attn: Sandra Sandoval, Legal Division
300 S. Spring Street, Suite 15513
Los Angeles, CA 90013

CONTACT PERSONS

Questions regarding this invitation for comments may be directed to Colleen Monahan, Senior Counsel, at (916) 576-4952.