

**From:** Eileen Newhall  
**To:** [DFPI Regulations](#)  
**Subject:** Notice of Proposed Rulemaking: Pilot Program for Increased Access to Responsible Small Dollar Loans - California Financing Law (PRO 04/21)  
**Date:** Saturday, August 07, 2021 12:55:03 PM

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To Whom It May Concern:

These comments are submitted on my own behalf and not on behalf of any licensee or other organization. They are based on my experience as a legislative committee consultant, who drafted, staffed, and analyzed SB 235 (Block), Chapter 505, Statutes of 2015 and who analyzed and was involved in extensive discussions surrounding AB 237 (Gonzalez), Chapter 1016, Statutes of 2018.

There are two areas of your proposed regulations on which I wish to comment, both of which involve finders. The first represents what I believe to be a mis-interpretation of the original statutory intent (Proposed Amendment to Regulation 1615). The second represents what I believe to be an over-reach that goes beyond the statutory intent and may represent an unnecessary burden on licensees that wish to use finders (Proposed Revision of Finder Registration Forms). Although I am unaware of any existing pilot program participants that are currently using finders, the statutory authority for their use remains. For that reason, and because you are proposing to update your regulations related to finders, I submit the following comments and suggestions.

**Regulation 1615.** Proposed subsection (b) states: "(b) For loans in which a finder performs any of the services listed in Section 22372, subdivision (a) of the Financial Code, the finder, if licensed or regulated under one of the state or federal laws specified in Section 22372, subdivision (b) of the Financial Code, may also perform the additional services set forth in Section 22372, subdivision (b) of the Financial Code."

Subdivision (b) of Section 22372 was never intended to condition the ability of a finder to perform one or more services described in that subdivision on the finder's performance of services described in 22372(a). Instead, 22372(b) was intended to convey the concept that a finder did not have to choose between the activities described in (a) and those described in (b); they could (but need not) perform services described in both subdivisions. Given the statutory intent, I suggest that you revise 1615(b) as follows: "(b) Finders licensed or regulated under one of the state or federal laws specified in Section 22372, subdivision (b) of the Financial Code may perform one or more of the services described in Section 22372, subdivision (b) of the Financial Code. A finder that performs services described in subdivision (b) of Section 22372 may, but need not, perform one or more services described in subdivision (a) of Section 22372."

**Proposed Revision of Finder Registration Forms.** The proposed regulations would require licensees wishing to use finders to provide both of the following for every one of their finders: 1) List all types of business activities conducted by the finder outside the authority of the California Financing Law (Application Question 9): and 2) List all government entities that regulate the finder's business activities, including all corresponding license, permit, and registration numbers, status, and expiration dates (Application Question 10): Although one can reasonably argue that the department should fully understand the nature of all business activities in which a finder engages *at its finder locations in the State of California*, Question 9 is not limited to the state of California. Because finders may not engage in finding activity

outside of California, it is unclear why the department would need information about a finder's business activities outside the state.

In the same vein, asking a licensee to compile a list of *all* federal, state, and local government entities that regulate a finder's non-CFL-related business activities inside and outside the state, together with every license/permit/registration number and expiration date, could represent a monumental recordkeeping exercise for licensees and their finders. Even if the exercise were limited to in-state licenses/permits/registrations, it could be monumental. Further, the statute does not envision such an extensive dive by the department into the non-CFL-related activities of finders. Instead, the statute authorizes the department to keep tabs on finders through background checks, regular reporting of pilot program activity, and periodic examinations. Does the department really need to know the county business license number and expiration date for every finder operating in multiple counties inside and outside the state? It's unclear how such an extensive compilation of information about a finder's non-CFL-related activities will benefit consumers, especially when the department is also proposing a question (Application Question 11) that asks licensees about whether a finder has been subject to disciplinary action by a government entity.

I suggest that you modify question 9 so that it is limited to finder activities in the State of California, and I suggest that you delete question 10 entirely on the basis that it could represent a significant burden on applicants; provides limited, if any, value to consumers; and that question 11, related to disciplinary action, should provide the department with information it needs to determine whether a finder may require further review.

Thank you very much for considering my comments and suggestions. If you have any questions or wish to discuss the content of this email in more detail, please don't hesitate to reach out.

Eileen Newhall, Owner  
Eileen Newhall Consulting LLC

