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11390 W. Olympic Blvd., Suite 480
Los Angeles, CA 90064
Tel: 310 820-5222
www.statefinancial.com

October 25, 2021

Commissioner of Financial Protection and Innovation
Attn: Sandra Sandoval
Regulations Coordinator
300 South Spring Street
15th Floor
Los Angeles, CA 90013
By email: regulations@dfpi.ca.gov

Re: California Code of Regulations
Title 10, chapter 3
3rd Modification

Dear Ms. Sandoval,

Following are my comments to the 3rd Modification to Title 10 Chapter 3 of the California Code of Regulations. My comments are limited to Asset Based Lending Transactions and are further primarily limited to Section 916 and related sections.

1. §916(3)(B) the "amount financed" is to be disclosed in the 2nd row 3rd column. I believe the definition wrongly excludes prepaid finance charges which are withheld from proceeds.

§900(a)(31)(F) defines "Amount financed" to be the amount defined by Financial Code §22803 and §950 [the line of credit amount] minus any "prepaid finance charge."

Prepaid finance charge is defined in §900(a)(35) to include any money paid to the financer before or at consumption of the transaction or withheld from proceeds. Commonly at closing a loan fee is withheld from proceeds but added to the loan.

I suggest the definition of prepaid finance charge be amended to include only those charges paid to the financer. This way disclosure will be limited to amounts upon which interest is charged.

2. Funding Provided required to be disclosed by §916(a)(3) is to be the amount calculated pursuant to §950(a)(2)(A) – the line of credit amount. To allow for growth, lines of credit are normally set in an amount greater than what currently collateral values would allow.

Be aware that this will require that disclosure of ancillary fees (e.g. "float," or collateral management fees) will be based on collateral and collections which, at the time of disclosure, do not exist.

Be aware also, using the line of credit amount does not tie at all to the §950(a)(2) required disclosures.

3. Section 901(4)(A) should be revised to allow for disclosure of an estimated term of one year or less to be expressed in whole months. People commonly think in months, not days; i.e. 9 months, not 270 days. Utility bills, car payments, bank statements all come monthly. Thus, (a) short term contract offers are generally expressed offered for a period of months, not days; (b) it is far simpler to calculate the termination of a short term transaction in months rather than days (e.g. a contract entered into on October 27, 2021 for six months terminates on April 27, 2022, easier than figuring 180 days -- April 25, 2022; (c) assumptions regarding ancillary fees required to be disclosed (§916(a)(2)) and considered in disclosing the estimated finance charge §916(a)(5) are commonly quoted in months; e.g. monthly bank charges, or estimates of wire fees.

Thank you for the opportunity to comment.

Sincerely,

State Financial Corporation

Gary Reiss
President

cc: @dfpi.ca.gov
@dfpi.ca.gov