

INITIAL STATEMENT OF REASONS  
FOR AMENDMENTS TO REGULATIONS UNDER THE  
CALIFORNIA FINANCE LENDERS LAW

As required by Section 11346.2 of the Government Code, the California Department of Business Oversight Commissioner (Commissioner) sets forth below the reasons for the proposed amendment to Section 1550 in Article 10, repeal of Sections 1580 through 1596 in Article 13, and adoption of Sections 1600 through 1618 in Article 14, of Subchapter 6 of Title 10 of the California Code of Regulations (10 C.C.R. Sections 1550, 1580 through 1596, and 1600 through 1618).

Effective July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight. The Department of Business Oversight (Department) has all of the powers, authority, enforcement, jurisdiction, laws and regulations that were under the former Department of Corporations and former Department of Financial Institutions. The Department licenses and regulates businesses engaged in financial transactions under the former Department of Corporations, including finance lenders and brokers under the California Finance Lenders Law.

SPECIFIC PURPOSE OF REGULATIONS [Government Code Section 11346.2, Subdivision (b)(1)]

This regulatory action proposes to:

- Adopt necessary rules to implement the Pilot Program for Increased Access to Responsible Small Dollar Loans. Effective January 1, 2014, Senate Bill 318 (Chap. 467, Stats. 2013) established the Increased Access to Responsible Small Dollar Loans pilot program to increase the availability to Californians of responsible small dollar loans of at least \$300 but less than \$2,500. The legislation also abolished the former pilot program, the Pilot Program for Affordable Credit-Building Opportunities, and transfers licensees from the former pilot program to the newly established pilot program and makes them subject to the rules of the new program.
- Repeal the regulations of the former pilot program, the Pilot Program for Affordable Credit-Building Opportunities.
- Amend the existing rule on advertising to provide guidance to licensees under the California Finance Lenders Law on how to report license information in advertisements.

For purposes of clarification, the Department recently amended the application forms in Sections 1581 and 1582 of the regulations under the Affordable Credit-Building Opportunities pilot program to require applicants and licensees to provide their federal taxpayer identification number for purposes of identifying delinquent business taxpayers [Assembly Bill 1424 (Chap. 455, Stats. 2011)]. The regulations for Assembly Bill 1424 rulemaking action was submitted to the Office of Administrative Law on November 20, 2013. The Department is proposing in this regulatory action to repeal the regulations

under the Affordable Credit-Building Opportunities pilot program, including Sections 1581 and 1582, because the program was abolished by operation of law effective January 1, 2014.

### Demand for Small Dollar Credit in California

A significant percentage of the population in California does not have access to mainstream financial institutions such as banks and credit unions, and therefore they have fewer options when they need to borrow money. In California, 28% of adults do not have a checking or savings account with a financial institution because they lack credit history, or have minimal credit history or subprime credit scores. Moreover, credit cards are often not available to this unbanked population, or if they are available, the cards carry very high interest rates and fees. Among the underbanked (defined as those with a bank account but a low credit score impedes access to credit), these individuals continue to use non-bank financial services, including money orders, payday lenders and pawn shops. (Senate Third Reading, Bill Analysis of Senate Bill 318, as Amended on September 6, 2013.)

In February 2013, the Legislature conducted an oversight hearing to examine small dollar lending under the California Finance Lenders Law and concerns that low income, low credit consumers face costly challenges when seeking short term credit. The Commissioner, formerly the Commissioner of Corporations, testified at the hearing that economic barriers, including the ability to keep the cost of credit affordable to consumers, impede the ability to increase the availability of small dollar loans under the California Finance Lenders Law.

### California Finance Lenders Law

The California Finance Lenders Law regulates both consumer and commercial lending, and the brokering of loans made by finance lenders. Loans made and brokered under this law may be unsecured, secured by real property or personal property such as automobile titles, or secured by both real and personal property.

The law sets forth regulations to protect borrowers of small dollar loans from unfair lending practices of licensed lenders and brokers, and limits the fees and interest rates for loans. Finance lenders are subject to interest rate ceilings and alternate rate ceilings on loans up to \$2,500. For example, the interest rate under the California Finance Lenders Law for a loan with a principal balance of less than \$2,500 is limited to a maximum annual percentage rate of approximately 30 percent. Late fees are limited to \$10 or \$15, based on the number of days late, and administrative fees are limited to a one-time charge of 5 percent of the loan, up to a maximum of \$50.

Many regulations, including the restrictions on fees and interest rates under the California Finance Lenders Law, do not apply to loans having a larger principal amount such as \$2,500, \$5,000 and \$10,000. Consequently, the law creates an incentive for licensees to increase the amount of a loan and thereby avoid the regulations applying to loans under \$2,500. Lenders have indicated that it is cost prohibitive to make small dollar loans under the California Finance Lenders Law because of the law's interest rate restrictions and fee caps on loans under \$2,500, the high cost of capital to lenders to make these loans and thin margins on generating loan volume. They contend that

the administrative costs are the same in underwriting a small or large loan, and therefore it is unprofitable to offer small dollar loans under the California Finance Lenders Law.

#### Pilot Program for Affordable Credit-Building Opportunities

In 2009, lenders under the California Finance Lenders Law made 167,265 loans under \$2,500. During that same period almost 12 million deferred deposit transactions, more commonly known as payday loans, were made under the California Deferred Deposit Transaction Law (California's payday loan law). This information suggested a demand for small dollar loans that was not being met under the California Finance Lenders Law.

The Legislature established the Pilot Program for Affordable Credit-Building Opportunities under the California Finance Lenders Law to increase the availability of affordable short term consumer credit by making small dollar lending (unsecured loans under \$2,500) a profitable business, and expand credit-building opportunities to enable consumers to move away from costly credit and borrow at better interest rates. Effective January 1, 2011, lenders under the pilot program were permitted to charge alternative interest rates and charges that are higher than the rates and charges under the California Finance Lenders Law, but less than under the California Deferred Deposit Transaction Law. Lenders are also authorized to use the services of finders in locating prospective borrowers. Only lenders who are licensed under the California Finance Lenders Law may participate in the program.

More than two years into the pilot program, the Department received only five applications and licensed three lenders to make loans under the program. Relatively few loans were made to borrowers with principal loan amounts under \$2,500 since the Affordable Credit-Building Opportunities pilot program became effective on January 1, 2011. Lenders contend that cost prohibitions continue to make small dollar lending under the pilot program unprofitable.

#### Pilot Program for Increased Access to Responsible Small Dollar Loans

The Legislature determined that more needs to be done to increase the availability of small dollar loans in California and as a result, established the Pilot Program for Increased Access to Responsible Small Dollar Loans in 2013. (Senate Rules Committee, Bill Analysis of Senate Bill 318 as Amended on September 6, 2013.) The new pilot program is intended to build upon the experiences and knowledge gained from the Affordable Credit-Building Opportunities pilot program, and these proposed regulations are necessary to implement the provisions of Senate Bill 318.

Specifically, Senate Bill 318 abolishes the former Affordable Credit-Building Opportunities pilot program and establishes in its place, the Pilot Program for Increased Access to Responsible Small Dollar Loans. The newly established pilot program is effective January 1, 2014 until January 1, 2018. The legislation provides that existing licensees under the former pilot program are transferred to the Increased Access to Responsible Small Dollar Loans program, and any outstanding loans made under the former program shall continue and be subject to the terms when the loans were made.

Because the Increased Access to Responsible Small Dollar Loans pilot program was modeled on the framework of the former pilot program, both pilot programs have many of the same provisions. Accordingly, the Department is proposing in this rulemaking action to largely adopt without change the same rules already adopted under the former Affordable Credit-Building Opportunities pilot program. The regulations for the Affordable Credit-Building Opportunities pilot program were approved by the Office of Administrative Law and filed with the Secretary of State in 2011.

To help better understand the regulations proposed in this rulemaking, the Department identifies in each section below whether the rule proposes to adopt a new rule, adopt a rule of the former Affordable Credit-Building Opportunities pilot program without change, or modify a rule of former pilot program and if modified, how it was modified. The Affordable Credit-Building Opportunities pilot program is referred to below as the “former pilot program” and the Increased Access to Responsible Small Dollar Loans pilot program as the “pilot program” to distinguish the two programs from each other.

### Amendment to Advertising Rule

The regulatory action proposes to amend Section 1550 to require in any advertisement the following statement, “Loans made or arranged pursuant to a California Finance Lenders Law license”. Financial Code section 22162 requires licensees to disclose in any advertisement that the licensee is licensed under the California Finance Lenders Law, but does not require specific language to be used in the disclosure. Licensees have repeatedly sought guidance from the Department on whether their advertisement complies with the Financial Code section 22162. The proposed regulatory action is intended to provide licensees with certainty before they expend resources on costly advertising and enable the Department to efficiently enforce the statutory provision.

### Repeal of the Former Pilot Program

The regulatory action proposes to repeal Sections 1580 through 1596 of the former pilot program. The proposed regulatory action is necessary because the program was abolished by operation of law effective January 1, 2014, pursuant to Senate Bill 318.

### Adoption of Rules for the Pilot Program

#### Section 1600

The regulatory action proposes to adopt a rule requiring licensees to notify the Department concerning any change to the information contained in the finder registration form, and provides the procedures and time period for communicating the changed information to the Department. Licensees are already required under existing regulation to maintain on file with the Department a current list of the licensee’s officers and directors (Section 1409) and to file an amendment with the Department for any change to information in the license application (Section 1409.1). The proposed regulatory action is necessary to inform licensees of the procedures for notifying the Department of changes

to registered finders, assist the Department in maintaining up-to-date information on the status of a licensee's finders, and ensure that regulations requiring licensees to maintain current information is consistent under the California Finance Lenders Law. The proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1601

The regulatory action proposes to clarify that the Commissioner's approval is required before a licensee may allow any branch manager to be responsible for more than one branch location. While Senate Bill 318 permits pilot program participants, with the Commissioner's approval, to have a branch manager responsible for more than one location, licensees under the California Finance Lenders Law are not allowed to have a branch manager managing multiple locations. Accordingly, the same branch manager may not manage more than one branch location if loans not made under the pilot program are also being offered at the locations. Because the branch manager rule under the California Finance Lenders Law is not the same rule under the pilot program, the proposed rule is necessary to help prevent misunderstandings of the law. The proposed regulatory action is a new rule to conform to the provisions of Senate Bill 318.

#### Section 1602

The regulatory action proposes to set forth the application form, application review period and filing procedures for any licensee or lender wishing to participate in the pilot program. Only lenders who are licensed or seeking licensure under the California Finance Lenders Law may apply to participate in the pilot program. The proposed regulatory action is needed to ensure that the Department has oversight of all lenders participating in the program and that only lenders approved by the Department are making loans under the pilot program. The proposed rule is substantially the same as the application rule of the former pilot program, except as modified to permit lenders not already licensed under the California Finance Lenders Law to apply concurrently for licensure and to participate in the pilot program in conformity with the provisions of Senate Bill 318.

#### Section 1603

The regulatory action proposes to set forth the finder registration form, time frame for review and registration filing procedures for any licensee that uses a finder in the course of business under the pilot program. Senate Bill 318 defines a finder as an entity that brings a licensee and prospective borrower together for the purpose of negotiating a loan contract. Senate Bill 318 requires finders to be registered, but not licensed, by the Department. The proposed regulatory action is needed to ensure that the Department, through the registration of finders, is able to monitor the activities of all of the finders being used by licensees. Senate Bill 318 did not make any changes to the regulation of finders and therefore the proposed rule would adopt without change the same rule of the former pilot program.

## Section 1604

The regulatory action proposes to set forth the amount of the application filing fee based on the Department's estimate of the costs to administer the pilot program. Senate Bill 318 authorizes the Commissioner to determine the amount of the filing fee for an application under the pilot program.

The proposed rule would adopt without change the same fee structure of the former pilot program. The Department determined the fee to be charged to licensees under the former pilot program based on the estimated costs to administer the licensing, reporting, examination and enforcement requirements of the program using examiner, investigator and attorney positions, and an estimate of the number of potential program participants.

The Department is required to conduct all of the same regulatory activities under the proposed regulatory action and anticipates that the same licensees will participate in the program, and therefore expects that the same fee structure will likely cover the Department's cost in administering the pilot program.

Licensees are responsible for paying the one-time application filing fee when the application is filed with the Department. The fee is scaled based on the number of licensed locations of the finance lender, beginning at \$250. The proposed regulatory action is needed to help ensure that the costs to administer the pilot program are adequate.

## Section 1605

The regulatory action proposes to set forth the amount of the annual finder registration fee and the method for calculating the fee. Senate Bill 318 provides that the finder registration fee shall be paid annually by licensees, based on the number of finders used by the licensee. Senate Bill 318 did not specify the amount of the fee and authorizes the Commissioner to determine the amount.

The proposed rule would adopt without change the same fee structure of the former pilot program. The Department determined the finder registration fee under the former pilot program based on the estimated costs to administer the finder registration, reporting, examination and enforcement requirements using examiner, investigator and attorney positions, and an estimate of the number of potential finders, which was derived from the licensees' other lines of business, including retail and other service businesses.

The Department is required to conduct all of the same regulatory activities under the proposed regulatory action and anticipates that the same licensees and finders will participate in the program, and therefore expects that the same fee structure will likely cover the Department's cost in administering the pilot program.

The proposed fee is scaled for each finder, based on the number of locations of each finder, and begins at \$100 annually. The proposed regulatory action helps ensure that the assessment of the annual finder registration fee is clear and fair to licensees, and bears a relationship to the extent of finder activity occurring by the finder based on the number of locations the finder may be engaged in finder activity.

## Section 1606

The regulatory action proposes to set forth the annual report form and the time period for filing the report required by Sections 22367 and 22375 of the Financial Code. Licensees under many of the lending laws administered by the Department, including the California Finance Lenders Law, are required to submit to the Department similar annual reports for each calendar year. The reports provide information on the business operations, including the number and types of loans made by licensees. The Department uses this information to identify lending and industry trends, and to better understand and monitor the business operations of its licensees. The information is also needed for the Department to evaluate and report on the utilization of pilot program as required by Section 22380 of the Financial Code. The proposed report form and filing requirements are substantially the same as the annual report rule of the former pilot program, except as modified to include the additional information reporting requirements in Senate Bill 318.

### Section 1606.1

The regulatory action proposes to adopt the annual report form and the time period for filing the report for licensees under the former pilot program. Senate Bill 318 abolished the former pilot program effective January 1, 2014, and transfers licensees from the former pilot program to the pilot program. Licensees under the former pilot program are required to file with the Department on or before March 15, 2014, a final annual report for the calendar year ending December 31, 2013, which is the last year of the pilot program. Except for minor technical changes, the proposed annual report form is the same form of the former pilot program. Because the information reporting requirements under the former pilot program are different from the requirements of the pilot program, the regulatory action is necessary to ensure that the Department collects and reports the information required under former Financial Code section 22361.

## Section 1607

The regulatory action proposes to identify certain information, not typically required in a loan transaction, which licensees are required to collect from a borrower. Senate Bill 318 requires the Commissioner to prepare and post on his or her Internet Web site a consolidated report on the utilization of the pilot program by July 1, 2015 and again by January 1, 2017, and further specifies the information that must be included in the reports. The Department anticipates collecting this information from annual reports submitted to the Department by licensees. Some of the information required in the reports such as census tract information of borrowers, may not be information typically needed by licensees in a loan transaction and therefore licensees need to be aware at the outset that they must collect this information for purposes of preparing complete annual reports at year-end. Accordingly, the proposed regulation is necessary to ensure that licensees understand the data that must be collected from borrowers. The proposed rule is substantially the same as the rule of the former pilot program, except as modified to conform to the provisions of Senate Bill 318 concerning additional information to be collected.

## Section 1608

The regulatory action proposes to set forth the information licensees need to provide to the Department concerning credit education programs and seminars, and establishes the Department's criteria for approving credit education programs or seminars. One of the purposes of Senate Bill 318 is to help borrowers understand, build and manage credit by making credit education available at no cost to borrowers. Specifically, Senate Bill 318 requires licensees to offer a credit education program or seminar to borrowers, and further requires the Commissioner to review and approve the credit education program or seminar before a licensee may offer the program or seminar to a borrower. Accordingly, a licensee may only offer a credit education program that has already been reviewed and approved by the Department. Licensees must provide to the Department for review and approval information concerning the credit education program or seminar that they are proposing to offer. The proposed regulatory action is necessary to inform licensees of the requirements for obtaining approval of credit education programs and seminars. Senate Bill 318 did not make any changes to the requirements concerning credit education, and therefore the proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1609

The regulatory action proposes to identify the procedures a licensee must follow when offering a credit education program or seminar to borrowers. The proposed regulation is necessary to ensure that licensees are in fact offering a program or seminar to borrowers and to enable the Department to ascertain licensee compliance with the law. The proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1610

The regulatory action proposes to identify the recordkeeping requirements concerning consumer reporting and underwriting standards. Senate Bill 318 requires licensees to report each borrower's payment performance to at least one of the consumer reporting agencies and imposes lender loan underwriting standards that are more stringent than those under the California Finance Lenders Law. The proposed regulatory action is needed to provide licensees with uniform record keeping procedures and to enable the Department to ascertain compliance with the law. The proposed rule is substantially the same as the books and records rule of the former pilot program, except as modified by Senate Bill 318 to require licensees to report borrower payment performance to consumer reporting agencies instead of to national credit reporting agencies.

#### Section 1611

The regulatory action proposes to set forth procedures for licensees to follow to verify the status of a finder. Senate Bill 318 imposes many requirements on the payment of compensation to finders, such as prohibiting a licensee from compensating finders who have been barred by the Commissioner from providing services. These requirements impose a duty on a licensee to verify a finder's status before paying the finder. The proposed regulatory action is necessary to provide a process to enable licensees to determine whether a finder has been barred by the Commissioner. The proposed rule would adopt without change the same rule of the former pilot program.

## Section 1612

When a borrower applies for a loan under the program, Senate Bill 318 requires licensees to provide the borrower with written or electronic disclosure concerning the amount of interest and loan payments, and the borrower's right to rescind the loan within a specified time. The purpose is to ensure that borrowers are fully informed about the costs of a loan and to provide borrowers with a "cooling off" period. The regulatory action proposes to set forth the procedures for licensees to follow in providing the disclosures to borrowers. The proposed regulatory action is necessary to provide licensees with clear procedures to prevent misunderstandings with borrowers and to enable the Department to ascertain licensee compliance with the law.

The regulatory action also proposes to require licensees to include the following statement in the disclosure, "This loan is made under the Pilot Program for Increased Access to Responsible Small Dollar Loans." The provisions of the pilot program provide borrowers with greater consumer protections than for other loans made under the California Finance Lenders Law, such as the right to receive advance notification from the lender before each loan payment is due. However, because licensees are not required to specifically disclose that a loan was made pursuant to the pilot program, borrowers may not be aware that their loan was made under the loan program or of the enhanced protections or rights available to them. Moreover, the Department has had difficulty in some examinations determining whether a loan was made under the former pilot program or under the California Finance Lenders Law. The proposed regulatory action is needed to ensure that borrowers are aware of the consumer protections available to them under the pilot program and to make the examination process more efficient and cost effective for licensees.

Except for changes to conform to Senate Bill 318, which authorizes notice by electronic applications, and adding a statement to the disclosure identifying that the loan was made under the pilot program, the proposed rule is substantially the same as the disclosure rule of the former pilot program.

## Section 1613

Senate Bill 318 requires the finder and the licensee to provide notices to borrowers disclosing the relationship between the finder and licensee, and how to make a complaint to the Department about a finder and/or licensee. The regulatory action proposes to set forth the procedures for finders and licensees to follow in providing the disclosure notice to borrowers, and is necessary to enable the Department to ascertain licensee compliance with the law. The proposed rule is substantially the same as the disclosure notice rule of the former pilot program, except as modified by Senate Bill 318 to streamline the process for providing the notice to borrower.

## Section 1614

Senate Bill 318 imposes restrictions on the activities and services of finders, places requirements on licensees who use finders, and authorizes the Department to examine the activities of finders. A licensee may be disciplined for violations committed by its finders. The regulatory action proposes to identify and make clear the

recordkeeping requirements for finders, and is necessary to prevent misunderstandings and to enable the Department to ascertain finder compliance with the law. Senate Bill 318 did not make any changes to the law on finders, and therefore the proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1615

Senate Bill 318 provides that a finder is acting as a finder when it receives or processes an application. However, the bill does not define what is meant by “receives” or “processes” an application. The regulatory action proposes to define these activities, and is needed to clarify that a finder receives or processes an application when it is doing one or more of the specified services. Senate Bill 318 did not make any changes to the law on finders, and therefore the proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1616

The regulatory action proposes to clarify the meaning of “counseling” and “advice”. Senate Bill 318 does not require finders to be licensed by the Department. However, finance brokers are required to be licensed under the California Finance Lenders Law. Finders are different from finance brokers in that finance brokers may advise, counsel or negotiate loans with borrowers, while finders may not. The proposed regulatory action is necessary to prevent misunderstandings concerning when a person is acting as a broker or a finder. Senate Bill 318 did not make any changes to the law on finders or brokers, and therefore the proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1617

Senate Bill 318 requires the Commissioner to conduct a random sample survey of borrowers to obtain information regarding the borrower’s experience and licensees’ compliance with the law. The regulatory action proposes to set forth the information that licensees must make available to the Department for purposes of conducting the survey. The proposed action is necessary to ensure that licensees understand the information that they are required to provide to the Department. The proposed rule would adopt without change the same rule of the former pilot program.

#### Section 1618

The regulatory action proposes to establish procedures for licensees to follow when notifying borrowers of payments and payment due dates. Senate Bill 318 requires licensees to remind borrowers in advance of each payment date and provides that borrowers may opt out of receiving the notifications. The proposed action is necessary to ensure that licensees are providing borrowers with payment notifications and to enable the Department to determine licensee compliance with the requirements. The proposed rule is a new rule to conform to the provisions of Senate Bill 318.

#### BENEFITS ANTICIPATED FROM REGULATORY ACTION [Government Code Section 11346.2, Subdivision (b)(1)]

The benefits and goals provided in the authorizing statute include allowing more Californians to access responsible installment loans of at least \$300 but less than \$2,500 by increasing the supply of these loans. According to the legislative findings, consumer demand in California for these loans exceeds availability and the Pilot Program for Increased Access to Responsible Small Dollar Loans was established by the Legislature to close the gap between supply and demand [Financial Code Section 22365, subdivision (b)].

The benefits anticipated from this regulatory action also include nonmonetary benefits from encouraging economic development in California through expansion of the small dollar loan market. By encouraging business development of the small dollar loan market through incentivizing lenders to offer affordable loans and eliminating unreasonable or unnecessary regulations that impede development, it is anticipated that California's general economy will benefit from more available and affordable credit in the hands of consumers.

Nonmonetary benefits also include improving the economic welfare of California consumers by making affordable small dollar loans more accessible as an alternative to payday loans or other more costly short term credit, helping consumers build or re-build their credit histories, and assisting California consumers to become more credit-wise by providing them with financial and credit education at no cost.

Further, the regulatory action increases transparency in government by adopting the rules and forms in compliance with California's rulemaking procedures and standards, and helps ensure that the public and those who would be subject to the proposed action are provided with a meaningful opportunity to participate in the adoption of the regulations.

#### POTENTIAL FOR ADVERSE ECONOMIC IMPACT ON BUSINESS AND INDIVIDUALS [Government Code Section 11346.3, Subdivision (a)]

The Commissioner has determined that the proposed regulatory action will not have an adverse economic impact or potential for an adverse economic impact on business, including the ability of California businesses to compete with businesses in other states, or individuals. The proposed regulations implement a pilot program designed to increase the availability of small dollar loans to Californians and repeal by operation of law the former pilot program. The former pilot program was established during the recent financial crisis with the purpose of providing consumers with more affordable credit alternatives, and helping them build or rebuild their credit. However, the former pilot program did not generate the level of small dollar lending expected and as a result, the Legislature established this pilot program in place of the former program to increase the supply of small dollar loans by increasing the financial and other incentives to lenders to make these loans.

Finance lenders participating in the pilot program are permitted to charge higher fees and charges on the small dollar loans that they originate and use the services of finders to help them make more loans. However, participation in the pilot program is voluntary and no finance lender will be required to make small dollar loans. The financial and other incentives are expected to have a positive economic impact on California finance lending businesses and their ability to compete with businesses in

other states. Moreover, a positive impact on the economic welfare of individuals is anticipated because the pilot program is intended to increase the availability and accessibility of small dollar credit to California consumers.

The proposed regulations are not anticipated to have an adverse impact on other industries. Based on recent information from annual reports filed with the Department by finance lenders under the California Finance Lenders Law and deferred deposit originators under the California Deferred Deposit Transaction Law, the short term credit market in California currently appears to be dominated by deferred deposit originators. However, because deferred deposit originators are already established in the market with a significant customer base, it is not certain that the proposed regulatory action will have an impact on them. Many factors, including consumer purchasing preferences and the ability of finance lenders to penetrate the short term credit market, will determine the economic impact on finance lender and deferred deposit originator businesses.

### ECONOMIC IMPACT ASSESSMENT [Government Code Section 11346.3, Subdivision (b)]

#### The Creation or Elimination of Jobs Within the State

The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California. The recordkeeping, reporting and other requirements for licensees under the pilot program are substantially the same requirements as for the former pilot program and therefore the proposed regulations should not impact job creation or elimination. The licensing, examination and other regulatory activities are currently being performed by state staff in the administration of the former pilot program and these same activities will continue to be performed by the same state staff for the new pilot program.

#### The Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or the elimination of existing businesses in the State of California because the proposed regulations only apply to licensees under the California Finance Lenders Law. A finance lender must be currently licensed and approved by the Commissioner to participate in the pilot program.

#### The Expansion of Businesses Currently Doing Business Within the State

The Commissioner has determined that this regulatory proposal may result in the expansion of financial lending businesses currently doing business in California because the pilot program is intended to increase lending activity by encouraging lenders to make more loans. Moreover, evidence exists that there is consumer demand in California for these loans. Specifically, the Legislature in establishing the pilot program found that consumer demand for small dollar loans exceeds the supply of the loans in California.

The Benefits of the Regulations to the Health and Welfare of California Residents,  
Worker Safety and the State's Environment

The Commissioner has determined that this regulatory proposal may benefit the health and welfare of California residents because the pilot program is intended to increase the supply of affordable small dollar credit to Californians. The regulatory proposal does not benefit worker safety or the state's environment.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR  
DOCUMENTS [Government Code Section 11346.2, Subdivision (b)(3)]

Other than reports cited in the Specific Purpose of Regulations and the Benefits Anticipated from Regulatory Action sections, the Department did not rely upon any technical, theoretical, or empirical study, report, or other similar document in proposing this regulatory action. The reports cited, or annual consolidated reports in the case of confidential reports, are on file with the Department.

REASONABLE ALTERNATIVES AND REASONS FOR REJECTING THOSE  
ALTERNATIVES [Government Code Section 11346.2, Subdivision (b)(5)(A)]

The Department has considered and determined that no reasonable alternative to the regulation has been identified or brought to its attention that would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Initial Statement of Reasons.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACT  
ON SMALL BUSINESSES AND REASONS FOR REJECTING THOSE  
ALTERNATIVES [Government Code Section 11346.2, Subdivision (b)(5)(B)]

No reasonable alternative considered by the Department or that have otherwise been identified and brought to the attention of the Department would be as effective and less burdensome to affected private persons, or would lessen any adverse impact on small business. Under Government Code Section 11342.610, subdivision (b), a finance lender is not a small business, and therefore no alternatives would lessen the impact of this rulemaking action on small business.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY OR OTHER EVIDENCE RELIED  
ON BY AGENCY [Government Code Section 11346.2, Subdivision (b)(6)(A)]

The Department did not rely on any information in determining that the proposed regulatory action will not have a significant adverse economic impact on business. The proposed regulations are necessary to implement the provisions of Senate Bill 318, which was enacted by the Legislature to expand the small loan market under the California Finance Lenders Law. In enacting the pilot program, the Legislature sought to develop responsible alternatives to high cost small dollar credit transactions.