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VIA E-MAIL

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Equipment Leasing and Finance Association
Comments on Proposed Rulemaking
Commercial Financial Disclosures
(PRO 01-18)
Department of Business Oversight
Monday, January 21, 2019

Scott Riehl
Vice President, State Government Relations
Equipment Leasing and Finance Association

Mr. Carriere,

On behalf of the Equipment Leasing and Finance Association (“ELFA”), please find below comments on various aspects of SB 1235. In addition to ELFA’s comments, this letter includes questions on specific aspects of SB 1235 that we encourage the Department of Business Oversight (“DBO”) to consider and address in drafting regulations. Note that in an effort to facilitate review we have reproduced the enacted legislation and interlineated our comments and questions. We appreciate the opportunity to provide comments to the DBO concerning these regulations, and look forward to continuing the productive dialogue on matters impacting the equipment finance and leasing industry.

BILL START

Senate Bill No. 1235

CHAPTER 1011

An act to add Section 22780.1 to, and to add Division 9.5 (commencing with Section 22800) to, the Financial Code, relating to commercial financing.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1235, Glazer. Commercial financing: disclosures.

(1) Existing law, the California Financing Law (CFL), provides for the licensure and regulation of finance lenders and brokers and, beginning on January 1, 2019, program administrators, by the Commissioner of Business Oversight. The CFL prohibits anyone from engaging in the business of a finance lender or broker without obtaining a license. Existing law defines a finance lender as any person who is engaged in making consumer loans or commercial loans, as defined. The CFL prohibits a licensee from making a materially false or misleading statement to a borrower about the terms or conditions of a loan. The CFL authorizes the commissioner to bring an action to enjoin, as specified, against a person who, in the commissioner's estimation, has violated or is about to violate the CFL, and authorizes the imposition of civil penalties to that effect. A willful violation of the CFL is a crime, except as specified.

This bill would require a provider who facilitates commercial financing to a recipient, as defined, to disclose specified information relating to that transaction to the recipient at the time of extending a specific offer of commercial financing, and to obtain the recipient's signature on that disclosure before consummating the commercial financing transaction. The bill would require that disclosure to include specified information, including the total amount of funds provided, information related to the payments to be made, and the total dollar cost of the financing. The bill would, until January 1, 2024, additionally require a provider to disclose the total cost of financing expressed as an annualized rate. The bill would authorize a provider who offers financing that is factoring or asset-based lending to, in lieu of those disclosure requirements, provide an alternative disclosure that meets specified requirements, including that the disclosure may be based on an example of a transaction that could occur under the general agreement for a given amount of accounts receivables. The bill would require the commissioner to adopt regulations governing these disclosure requirements, and would require those regulations to include specified information and determinations. The bill would provide that a provider is not subject to these provisions until those regulations become effective. The bill would provide that the provisions of this bill do not apply to specified entities or financing arrangements, including a provider who is a depository institution, which this bill would define to include specified state and federal financial institutions, a commercial financing transaction secured by real property, and a commercial financing transaction in which the recipient is a dealer or vehicle rental company and meets specified requirements, or a provider who makes a specified number of commercial financing transactions in California during a 12-month period and meets other requirements.

This bill would require a provider who is licensed under the CFL to be subject to the examination and enforcement authority of the commissioner granted under the CFL with respect to any violations of these provisions, and would make a conforming change to that effect. By expanding the scope of an existing crime with regard to willful violations of the CFL, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

ELFA Preliminary Question:

Does the DBO intend to prepare an economic impact assessment as required under Cal. Gov. Code 11346.3? The ELFA understands that State agencies proposing to adopt “major regulations” (defined as regulations with an impact exceeding \$50M) must submit a standardized regulatory impact analysis to the Department of Finance. The Department of Finance has a set of regulations that determine how these analyses should be carried out. Once the Department of Finance reviews the analysis, the state agency will then summarize the results and include any of the Department of Finance’s comments. See Department of Finance’s website discussion at

http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 22780.1 is added to the Financial Code, to read:

22780.1.

A violation of Division 9.5 (commencing with Section 22800) by a licensee shall constitute a violation of this division.

SEC. 2.

Division 9.5 (commencing with Section 22800) is added to the Financial Code, to read:

DIVISION 9.5. Commercial Financing Disclosures

22800.

For purposes of this division:

- (a) “Account” means a right to a payment of a monetary obligation.
- (b) “Accounts receivable purchase transaction” means a transaction as part of an agreement requiring a recipient to forward or otherwise sell to the provider all or a portion of accounts, payment intangibles, or cash receipts that are owed to the recipient or are collected by the recipient during a specified period or in a specified amount.
- (c) “Asset-based lending transaction” means a transaction in which advances are made from time to time contingent on a recipient forwarding payments received from one or more third parties for goods the recipient has supplied or services the recipient has rendered to that third party or parties.

ELFA Comment: The element of the definition stating that an asset-based lending transaction is contingent on “a recipient forwarding payments received from one or more third parties” needs regulatory clarification as common industry practice is that the recipient (borrower) does not receive and forward payments, but payments are made directly by the account debtor to a

lockbox controlled by the provider (lender) or directly to the provider by the account debtor. We would recommend a clarifying regulation that explains that “a recipient forwarding payments” includes account debtor payments to a lockbox controlled by a provider or directly to the provider by the account debtor.

(d) (1) “Commercial financing” means an accounts receivable purchase transaction, including factoring, asset-based lending transaction, commercial loan, commercial open-end credit plan, or lease financing transaction intended by the recipient for use primarily for other than personal, family, or household purposes.

(2) For purposes of determining whether financing is commercial financing within the meaning of this subdivision, the provider may rely on any written statement of intended purposes signed by the recipient. The statement may be a separate statement signed by the recipient or may be contained in a loan application or other document signed by the recipient. The provider shall not be required to ascertain that the proceeds of the commercial financing are used in accordance with the statement of intended purposes.

ELFA Comment: ELFA requests a clarifying regulation stating that contracts for services and conditional or installment sale contracts are not considered “commercial financing”.

(e) “Commercial loan” means a loan of a principal amount of five thousand dollars (\$5,000) or more, or any loan under an open-end credit plan, the proceeds of which are intended by the recipient for use primarily for other than personal, family, or household purposes.

(f) “Commercial open-end credit plan” means a provider’s plan for making open-end loans pursuant to a loan agreement that sets forth the terms and conditions governing the use of the open-end credit program, and provides that:

(1) The recipient may use the open-end credit program to obtain money, goods, labor, or services or credit, and the provider makes open-end loans to the recipient for the purpose of paying money to, or at the direction of, the recipient or paying obligations that the recipient creates through use of the open-end credit program.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

ELFA Comment: ELFA requests a clarifying regulation that would further explain that “charges” means interest, fees and reimbursable costs and expenses.

(3) The charges are computed from time to time on the unpaid balances of the recipient’s account, excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(4) The recipient has the privilege of paying the account in full at any time.

ELFA Comment: ELFA requests a clarifying regulation that “Commercial open-end credit plan” includes products generally known as revolving lines of credit, warehouse lines of credit and revolving inventory floor plan loans.

(g) “Commissioner” means the Commissioner of Business Oversight.

(h) “Depository institution” means any of the following:

(1) A bank, trust company, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States, this state, or any other state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.

(2) A federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state.

(3) A savings and loan association, savings bank, or credit union organized under the laws of this or any other state that is authorized to transact business in this state.

ELFA Comment: ELFA requests a clarifying regulation that “Depository Institution” also includes subsidiaries and affiliates of the entities named in clauses (1), (2) and (3). This is consistent with prior DBO practice and interpretive opinions (see, for example, DBO Interpretive Opinion dated April 27, 2016) and with the policy rationale for excluding these affiliates and subsidiaries under Division 9 as they are also operating under the applicable federal or state authority regulating the parent or affiliated bank.

(i) “Factoring” means an accounts receivable purchase transaction that includes an agreement to purchase, transfer, or sell a legally enforceable claim for payment held by a recipient for goods the recipient has supplied or services the recipient has rendered that have been ordered but for which payment has not yet been made.

(j)(1) “Lease financing” means providing a lease for goods if the lease includes a purchase option that creates a security interest in the goods leased, as defined in paragraph (35) of subdivision (b) of Section 1201 and Section 1203 of the Commercial Code.

(2) The definition of lease financing in this Division shall not be construed to repeal or otherwise amend existing law related to the definition of leases and security interests under the Commercial Code.

ELFA Comment: ELFA requests a clarifying regulation that leases having “terminal rental adjustment clauses (commonly called “TRAC Leases”) are also not “lease financings” because, in accordance with California Commercial Code Section 1203 (c) (7), a transaction in the form of a lease does not create a security interest in the case of a motor vehicle, as defined in Section 415 of the Vehicle Code , or a trailer, as defined in Section 630 of that code, that is not to be used primarily for personal, family, or household purposes, where the amount of rental payments may be increased or decreased by reference to the amount realized by the lessor upon sale or disposition of the vehicle or trailer.

(k) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation.

(l) “Person” means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, or an unincorporated organization.

- (m) “Provider” means a person who extends a specific offer of commercial financing to a recipient. “Provider” also includes a nondepository institution, which enters into a written agreement with a depository institution to arrange for the extension of commercial financing by the depository institution to a recipient via an online lending platform administered by the nondepository institution. The fact that a provider extends a specific offer of commercial financing or lending on behalf of a depository institution shall not be construed to mean that the provider engaged in lending or originated that loan or financing.

ELFA Comment: ELFA requests a clarifying regulation that a third party such as an equipment dealer, manufacturer or other loan arranger that has the business relationship with the recipient may provide the disclosure.

- (n) “Recipient” means a person who is presented a specific commercial financing offer by a provider that is equal to or less than five hundred thousand dollars (\$500,000).

ELFA Comments: The ELFA requests a clarifying regulation that further specifies that a “Recipient” for purposes of Disclosures means the borrower or lessee in a commercial financing transaction that is either (1) a legal entity organized under the laws of the state of California or having its principal place of business in California or (2) in the case of a Recipient that is an individual or sole proprietor is a legal resident of the state of California.

With respect to the \$500,000 threshold, the ELFA requests a clarifying regulation stating that the \$500,000 threshold applies to the amount of the specific commercial financing offer, although that amount may not be fully disbursed or may be disbursed through a series of smaller advances, notes, schedules or loans (each of which could be less than \$500,000) based on the customer’s requirements. This commonly occurs where a customer is offered a lease or loan line of credit, revolving loan facility, floorplan facility, interim funding or “progress payment” transaction that permits the customer to borrow up to a stated amount, but the amount actually borrowed or outstanding at a particular time may be less than the offer based on the customer’s requirements. Thus, a customer that receives an offer for financing that exceeds \$500,000 is not a “Recipient” for purposes of disclosure, even though the outstanding balance from time to time may be less than \$500,000 and/or the customer may make draws in increments less than \$500,000.

22801.

This division does not apply to any of the following:

- (a) A provider that is a depository institution.

ELFA Comment: As noted above, ELFA requests a clarifying regulation that this division would also not apply to subsidiaries and affiliates of depository institutions to be consistent with prior DBO practice and interpretive opinions and the policy goals of the division. This can be accomplished by either including affiliates and subsidiaries in the definition of depository institution as we requested above, or this exclusion could be expanded to state “depository institutions and their subsidiaries and affiliates”.

- (b) A provider that is a lender regulated under the federal Farm Credit Act (12 U.S.C. Sec. 2001 et seq.).

(c) A commercial financing transaction secured by real property.

ELFA Comment: ELFA requests a clarifying regulation stating that a commercial financing transaction that includes both real property collateral and non-real property collateral is a commercial financing transaction that is secured by real property; and that financing of “fixtures” (which are defined under California Civil Code Section 660 as real property) would also be commercial financings secured by real property

(d) A commercial financing transaction in which the recipient is a dealer, as defined by Section 285 of the Vehicle Code, or an affiliate of such a dealer, or a vehicle rental company, or an affiliate of such a company, pursuant to a specific commercial financing offer or commercial open-end credit plan of at least fifty thousand dollars (\$50,000), including any commercial loan made pursuant to such a commercial financing transaction.

ELFA Comment: ELFA cannot determine why only vehicle dealers and vehicle rental companies are subject to this exemption. The sophistication and understanding of finance structures relating to dealer finance is not dependent on the particular product(s) that the dealer is financing, and we do not see any basis for distinguishing between dealers of vehicles vs dealers of other products such as construction equipment, boats, recreational vehicles, etc. We also believe that the exemption for commercial open-ended credit plans should apply broadly because such plans (including common financial products such as revolving lines or credit, warehouse lines of credit and inventory floor plan loans) by their very nature are not susceptible to the kinds of disclosures that are required by the division. Because advances and repayments are made frequently (even daily), any specific disclosures required become hypothetical since there may be no fixed amount of funds provided, no total dollar cost of financing, no fixed term of repayment, no fixed method, frequency or amount of payments.

(e) Any person who makes no more than one commercial financing transaction in California in a 12-month period or any person who makes five or fewer commercial financing transactions in California in a 12-month period that are incidental to the business of the person relying upon the exemption.

ELFA Comment: ELFA requests a clarifying regulation to further explain what is meant by “incidental to the business of the person relying upon the exemption”. We believe this is intended to exempt providers that (1) have the majority of their transactions with recipients that are not in the state of California (i.e., are not organized and do not have their principal place of business in the state of California), but have up to 5 commercial financing transactions with recipients who are in the state of California.

ELFA Comment: In order to be consistent with Division 9 generally, ELFA requests a clarifying regulation that would include in exemptions any person or entity that the Commissioner of the Department of Business Oversight has previously found to be exempt from Division 9 of the California Financial Code, or who is otherwise exempt from Division 9 of the California Financial Code.

22802.

(a) A provider subject to this division shall disclose all of the information in subdivision (b) or in Section 22803, if applicable, to a recipient at the time of extending a specific commercial financing offer to that recipient, and shall obtain the recipient's signature on such a disclosure before consummating the commercial financing transaction.

ELFA Comments: ELFA requests a clarifying regulation regarding the effect of a failure of a provider to provide required disclosures on assignees of the commercial financing. While the provider may be liable for a failure to provide disclosures in accordance with the division, the commercial financing as assigned to an assignee that was not involved in the initial specific commercial financing offer should be valid, binding and enforceable once assigned to the assignee.

ELFA also requests a clarifying regulation that better describes when a "specific commercial financing offer" is made and proposes that such disclosure is adequate when made at the time of delivery of definitive loan documents to the recipient for review. In many cases this will be the best time for accurate disclosures because prior communications may be contingent on various approvals or other conditions or further information and requiring disclosures at an earlier time could to a string of successive and confusing disclosures.

ELFA also request a clarifying regulation that amendments to or renewals of existing commercial financings will not be considered a new "specific commercial financing offer".

(b) Except as provided in Section 22803, a provider subject to this division shall disclose all of the following:

- (1) The total amount of funds provided.

ELFA Comments: ELFA requests a clarifying regulation relating to the calculation of the total amount of funds provided in a lease financing transaction when the provider is a manufacturer or vendor of equipment and no funds are provided because the recipient (lessee) agrees to pay scheduled periodic payments over a fixed term in exchange for obtaining title to the equipment. In such case the total amount of the funds provided would be deemed to be either (a) the cost of the equipment as stated on the invoice (if there is an invoice); or (b) if there is no invoice, then the present value of the scheduled periodic payments for the term (using a discount rate disclosed to the recipient as a part of the required disclosures).

ELFA also requests a clarifying regulation that would permit the use of an example where the amount specified in the specific commercial financing offer may not be disbursed in a single lump sum or may be advanced in increments or not fully utilized by the recipient (such as a commercial open-end credit plan or an interim/progress payment financing). For example, if the specific commercial financing offer contemplated a maximum of \$400,000 but the recipient may make periodic draws and repayments, the provider could provide disclosures based on a draw of the full \$400,000 as a single lump sum.

(2) The total dollar cost of the financing.

ELFA Comments: ELFA requests a clarifying regulation describing what costs are to be included in the “total dollar cost of financing”. The ELFA believes that costs paid to third parties by the recipient (or paid by the provider to third parties and reimbursed by the recipient) such as the cost of filing UCC financing statements, the cost of insuring collateral, the cost of having the lien noted on certificates of title should not be included in the “total dollar cost of the financing”. On the other hand, fees that are charged by the provider to the recipient relating to the commercial financing and that are paid by the recipient in cash to the provider or added to the amount financed should be included in the “total dollar cost of the financing”. This would include items such as commitment fees, proposal fees, facility fees, administrative fees, documentation fees, points, etc. whether paid by the recipient in cash or added to the amount financed.

Also, any fees or other amounts that are paid by the provider to third parties that are not reimbursed by the recipient and not charged to the recipient through the financing should not be included in the “total dollar cost of the financing”.

(3) The term or estimated term.

ELFA Comment: ELFA requests a clarifying regulation that would permit the use of an example where the term is not fixed. Again, as previously noted in connection with commercial open-ended credit plans such as revolving lines or credit, warehouse lines of credit and inventory floor plan loans, or programs with extensive prepayment provisions, there may not be a fixed term, so only a hypothetical example will be available for purposes of required disclosures.

(4) The method, frequency, and amount of payments.

ELFA Comments: ELFA requests a clarifying regulation stating whether the “method” of payment refers to the method by which payments are to be made (e.g., wire transfer, ACH, check) or the method by which the amount of the payments is calculated (e.g. simple interest, compound interest, Rule of 78’s)? If the latter, it is sufficient to just state “simple interest method” “compound interest method” or “Rule of 78’s”? If not, then what additional information is required?

ELFA also requests a clarifying regulation on how disclosures are to be made where the payment amount is variable or “floats” based on a specified index rate such as LIBOR or Prime Rate. In such a case ELFA would again suggest that regulations permit an example to be used or that the provider be permitted to describe the manner in which payments will be calculated.

(5) A description of prepayment policies.

ELFA Comments: ELFA requests a regulation clarifying that “prepayment policies” means the prepayment provisions as contained in the commercial financing documentation. Rather than restating in the disclosures the prepayment provisions as written elsewhere in the commercial financing documentation, ELFA also requests that a

reference in the disclosures to the specific sections governing prepayment be sufficient. If there are no prepayment provisions, then a statement to that effect would comply with the disclosure requirement.

(6) The total cost of the financing expressed as an annualized rate.

ELFA Comments: ELFA requests a clarifying regulation providing guidance on the methodology to be used for calculation of the “annualized rate” for the total cost of the financing.

Fees paid by the provider to third parties that are not reimbursed by the recipient and not charged to the recipient through the financing, are not included in the calculation of the “annualized rate.”

How are security deposits and advance payments to be treated in calculating the annualized rate?

(c) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

22802. [See comments to prior Section 22802 above]

(a) A provider subject to this division shall disclose all of the information in subdivision (b) or in Section 22803, if applicable, to a recipient at the time of extending a specific commercial financing offer to that recipient, and shall obtain the recipient’s signature on such a disclosure before consummating the commercial financing transaction.

(b) Except as provided in Section 22803, a provider subject to this division shall disclose all of the following:

- (1) The total amount of funds provided.
- (2) The total dollar cost of the financing.
- (3) The term or estimated term.
- (4) The method, frequency, and amount of payments.
- (5) A description of prepayment policies.

(c) This section shall become operative on January 1, 2024.

22803.

(a) As an alternative to the disclosures required in subdivision (b) of Section 22802, a provider who offers commercial financing that is factoring or asset-based lending and that offers the recipient an agreement that describes the general terms and conditions of the commercial financing transaction that

will occur under the agreement, may provide the following disclosures as an example of a transaction that could occur under the general agreement for a given amount of accounts receivables:

- (1) An amount financed.
- (2) The total dollar cost.
- (3) The term or estimated term.
- (4) The method, frequency, and amount of payments.
- (5) A description of prepayment policies.
- (6) The total cost of the financing expressed as an annualized rate.

(b) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

ELFA Comment: As noted above, there are many commercial financing products in addition to factoring and asset-based lending where disclosures can only be provided by hypothetical example if they are to be meaningful and understandable by the recipient. ELFA would therefore request a clarifying regulation either in 22803 or 22802 that permits hypothetical examples to be used for any commercial financing transaction where any of the items described in clauses (1) through (4) may be variable such as in any commercial open-end credit plan, loans with multiple advances, revolving, lines of credit, progress payment/interim funding agreements, etc. lease lines of credit.

22803.

(a) As an alternative to the disclosures required in subdivision (b) of Section 22802, a provider who offers commercial financing that is factoring or asset-based lending and that offers the recipient an agreement that describes the general terms and conditions of the commercial financing transaction that will occur under the agreement, may provide the following disclosures as an example of a transaction that could occur under the general agreement for a given amount of accounts receivables:

- (1) An amount financed.
- (2) The total dollar cost.
- (3) The term or estimated term.
- (4) The method, frequency, and amount of payments.
- (5) A description of prepayment policies.

(b) This section shall become operative on January 1, 2024.

22804.

(a) The commissioner shall adopt regulations governing the disclosures described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 22802 and paragraphs (1) to (5), inclusive, of subdivision (a) of Section 22803. Those regulations shall include all of the following:

(1) Definitions, contents, or methods of calculations for each of the disclosure items set forth in each applicable paragraph of subdivision (b) of Section 22802 and subdivision (a) of Section 22803.

(2) Requirements concerning the time, manner, and format of the applicable disclosures described in subdivision (b) of Section 22802 and subdivision (a) of Section 22803.

(b) The commissioner shall adopt regulations concerning the annualized rate disclosure described in paragraph (6) of subdivision (b) of Section 22802 and paragraph (6) of subdivision (a) of Section 22803. Those regulations shall include all of the following:

(1) A determination of the appropriate method to express the annualized rate disclosure and the types of fees and charges to be included in that calculation.

(2) When providers shall be permitted to disclose an estimated annualized rate, and how such an estimate shall be calculated. The method of calculation determined by this paragraph shall specify the accuracy requirements and tolerance allowances for the calculation, and the types of fees and charges to be included in the calculation.

(3) Requirements concerning the time, manner, and format of the disclosure.

ELFA Comments (Subsections (a) and (b):

ELFA requests a clarifying regulation that would permit disclosures to be made in either (1) a separate disclosure signed by the recipient or (2) in a conspicuous disclosure section contained in the commercial finance documents that are signed by the customer, in each case prior to the consummation of the commercial financing transaction. ELFA would be happy to assist in developing a standard form of “safe harbor” disclosure that could be used by providers to satisfy the requirements of the new division 9.5.

ELFA would also request a clarifying regulation that states that no new disclosures would need to be made if, after initial disclosures are signed and returned by the recipient, there are changes to the amount of the funds being provided due to modification of property or services being financed at the request or with the agreement of the recipient and there is also no change in the interest rate, term or frequency of payments.

Also, if there are changes in prepayment provisions after the initial disclosures, there would be no need for new disclosures since the amendment of the prepayment provisions would, itself, be a new disclosure.

Finally, if there are written amendments after initial disclosures that reduce the amount financed, total dollar cost, amount of payments or annualized rate, there would be no requirement for new disclosures other than the written amendments.

(c) A provider shall not be required to comply with the disclosure requirements of this division until the final regulations are adopted by the commissioner pursuant to this section and become effective on the applicable date described in Section 11343.4 of the Government Code.

22805.

Any provider licensed under the California Financing Law (Division 9 (commencing with Section 22000)) as of the date that the final regulations adopted by the commissioner pursuant to Section 22804 become effective and from that point thereafter, shall be subject to examination and enforcement by the commissioner under California Financing Law (Division 9 (commencing with Section 22000)) for any violation of this division or any rule or order adopted pursuant to this division.

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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We respectfully request that the DBO give **ELFA's** position on this matter due consideration. If you have further questions, please do not hesitate to contact us.

Respectfully,

/s/ Scott Riehl

Scott Riehl
Vice President, State Government Relations
Equipment Leasing and Finance Association