

**WAYNE STRUMPFER**Acting California Corporations Commissioner  
Los Angeles, California

# Deferred Deposit Originator Bulletin

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## ***Deferred Deposit Transaction Law In Review***

Senate Bill 898 established the California Deferred Deposit Transaction Law (CDDTL) and transferred the responsibility for licensing and regulating persons engaged in the business of deferred deposit transactions from the Department of Justice to the Department of Corporations (Department). The legislature declared that the CDDTL was to provide greater regulatory oversight of the deferred deposit transaction industry, guarantee that consumers have the disclosures necessary to make informed decisions regarding deferred deposit transactions and gather the information necessary for future legislative activity.

In November 2001, prior to the passage of Senate Bill 898, the Assembly Business and Professions Committee conducted an extensive all-day informational hearing that provided a comprehensive assessment of the major issues associated with deferred deposits. Witnesses and panel participants included legislative representatives of virtually all interested parties, as well as state and national legal, academic and regulatory experts. Following the informational hearing the Assembly Business and Professions committee chair initiated negotiations with all stakeholders, including representatives of the author's office, consumer groups, deferred deposit businesses, regulatory agencies and committee staff. These complex negotiations lasted approximately eight months, resulting in the final version of Senate Bill 898.

The effective date of Senate Bill 898 was January 1, 2003, though the new law was not operative until March 1, 2004. Subsequently, Assembly Bill 971 extended the operative date of the CDDTL until December 31, 2004. Under the CDDTL, any person intending to engage in the business of deferred deposit transactions on or after March 1, 2004, who held a permit from the Department of Justice prior to January 1, 2003 and made deferred deposit transactions prior to January 1, 2003, was required to submit a license application with the appropriate fees and pay the initial assessment prior to May 15, 2003. In March of 2003, the Department mailed approximately 4,000 applications to persons holding permits from the Department of Justice. On April 20, 2004, the Commissioner adopted Sections 2020 and 2021 and amended Section 250.51 of Title 10 of the California Code of Regulations, which implemented the long-form and short-form license applications under the CDDTL. ***Any person engaging in deferred deposit transaction business in California after December 31, 2004 is required to have a license under the CDDTL from the Department.***

Staff began processing the license applications in 2004, notifying applicants of the items needed to complete their applications. As of December 31, 2004, the Department issued licenses for 2,100 locations.

In the early part of 2005, the Department focused on unlicensed activity. Using the list of permit holders from the Department of Justice as a starting point, the Department sent approximately 400 letters inquiring about possible unlicensed deferred deposit transaction business. Based on the responses to the letters and information from other sources, staff visited approximately 150 locations to investigate possible unlicensed deferred deposit transaction business. The investigations resulted in the Department issuing 20 orders to desist and refrain from engaging in deferred deposit transaction business without a license under the CDDTL and assessing penalties totaling \$17,500. Orders are listed in the "Enforcement Actions" section of this newsletter.

In 2005, the Department developed and implemented a regulatory examination program for businesses engaging in deferred deposit transactions. The CDDTL requires that the Department examine each licensee at least once every two years to determine compliance with the CDDTL and the Commissioner's regulations. Representatives from the industry volunteered to allow Corporations' examiners to visit their locations, showing them firsthand the daily operations of the business and the books and records used. The visits allowed the Department to gain greater insight into the business and industry practices for maintenance of books and records.

On or about May 20, 2005, the first annual assessment notices were mailed to all licensees, with payment due on June 20, 2005. The annual assessment for the fiscal year 2005/2006 (July 1, 2005 to June 30, 2006) was \$500 for each licensed location. The amount of the annual assessment will vary each year, depending on the Department's budget, the costs to administer the program and the number of licensed locations. The amount of the assessment for each licensed location for fiscal year 2006/2007, due on June 20, 2006 has not been determined at this time.

In December 2004, the Department notified the industry of its intent to adopt regulations relating to books and records retention and the format and instructions for the annual report licensees are required to file each year with the Commissioner. The Department made a number of revisions to the proposed regulations based on comments and recommendations received from industry members and other interested parties. On January 25, 2006, the Commissioner adopted Sections 2025, 2026, 2027, 2028 and 2029 of Chapter 3, Title 10 of the California Code of Regulations (CCR) relating to books and records retention and Section 2030 CCR relating to the format and instructions for the annual report. The regulations may be obtained from the Department's website at <http://www.corp.ca.gov/pol/rm/rm.htm#PRO2304>.

In 2005, the Department received 678 license applications and issued 628 licenses. Of the applications received, thirteen were abandoned for failure to complete the applications, three applicants voluntarily withdrew their applications and the Department denied seven applications. 233 licenses were surrendered in 2005. As of December 31, 2005, there were 473 licensed companies with 1,972 licenses for additional locations, totaling 2,445 CDDTL licensed locations. The number of licensed locations increased by 345 locations in 2005. There were 27 license applications pending as of December 31, 2005.

Prior to the operative date of the new law, the Department met with industry representatives on a regular basis to discuss implementation of the new law and the processing of license applications. The Commissioner established the California Deferred Deposit Transaction Law Advisory Committee to provide an opportunity for the industry and other interested parties to communicate their positions and opinions on issues relating to this law. Currently, the Advisory Committee meets once every

quarter. The frequency of the meetings may change depending on the necessity to meet more or less often. Please contact any member of the Committee if you have any items you would like to

place on the agenda. After the meeting, the committee member should report back to you with the results of the discussion. A list of the current Advisory Committee members is included in this bulletin.

## ***Annual Report***

By March 15<sup>th</sup> of each year, each licensee is required to submit an annual report to the Commissioner providing specific information regarding the previous calendar year. The report form and the instructions for completing the report were mailed to all licensees on January 13, 2006. The report must be filed even if no business was conducted under the license in 2005. Companies with multiple locations must prepare one report consolidating the information from all locations into one report. The licensee or an authorized representative of the licensee is required to sign the report. Failure to file the report by the due date of March 15, 2006 may result in revocation of the license.

The report form and instructions for completing the annual report are available on the Department's website at <http://www.corp.ca.gov/forms/fsdlist.htm#cddtl> or by calling (866) ASK-CORP (275-2677).

## ***Regulatory Examination***

The CDDTL provides that the Department may at any time, but not less than once every two years, investigate the business of deferred deposits, and examine the books, accounts, records and files of every licensee. The purpose of the regulatory examination is to determine compliance with the CDDTL and the rules and regulations established by the Commissioner. The licensee is required to allow the Department's representatives to have free access to the offices and places of business, along with books, accounts, records, files, safes and vaults.

Each licensee is required to pay for the costs of its regulatory examination. The costs for the regulatory examination include a current hourly billing rate of \$75.93, plus applicable travel and lodging expenses incurred by the examiner. To the extent possible, overnight travel costs will be allocated among multiple licensees examined during the travel period. Currently, the Department estimates a minimum of eight hours, excluding travel time, to complete the regulatory examination for a single location. Those licensees that have larger than average volume, are not maintaining adequate books and records or have numerous exceptions may require additional hours to complete the regulatory examination.

The examiner will start the examination at 8:30 a.m. in the morning, working until 5:00 p.m. in the afternoon, with one hour allocated for breaks and lunch (the hourly charge excludes the hour for breaks and lunch). The hourly billing for the examination will commence at 8:30 a.m., regardless of whether the office is closed or if appropriate office staff are not present to provide the examiner with the records required to conduct the examination. The examination will take longer for those licensees that do not allow the examiner to work from 8:30 a.m. to 5:00 p.m. and will result in a larger examination bill.

The Department will notify the licensee in writing prior to the commencement of the regulatory examination and request the licensee to complete and return a questionnaire within ten (10) days from receipt of the letter. The notification will be mailed to the person and address disclosed in the

application as the contact person for the licensee. After the completed questionnaire has been received and reviewed, an examiner will inform the licensee by phone of the scheduled date of the examination. For those licensees with multiple locations, the examiner will inform the contact person designated by the licensee of the dates for each location to be examined. The Department will attempt to be flexible in scheduling the examinations to avoid conflicts with the licensees, but this may not always be possible. Those licensees that fail to return the questionnaire may not receive any further notification of the date of the examination.

For identification purposes, each examiner will have a badge, state identification and a business card. A licensee may call the Department's toll free number (866) ASK CORP (275-2677) to verify the identity of the examiner and his or her authority to conduct the regulatory examination.

The examiner will have a meeting with the licensee to discuss the findings at the conclusion of the examination. Within thirty (30) days of completion of the fieldwork, the licensee will receive a regulatory letter and an invoice for the cost of the examination. The licensee will then have thirty (30) days to inform the Department in writing of any corrective actions requested in the regulatory letter. Payment of the invoice is due when received. The Department may conduct a follow-up examination and/or take disciplinary action against those licensees that fail to respond to the regulatory letter or those licensees that submit an inadequate response. The licensee will be charged for the costs of any follow-up examinations. The license may be revoked for failure to pay for the costs of the examination.

Notwithstanding the procedures described above, the Department reserves the right to perform an examination or investigation of any person subject to the CDDTL at any time without any prior notification whenever it is deemed necessary. Each licensee is required to allow the Commissioner's representatives free access to the offices and places of business, books, records, accounts, papers, files, safes, and vaults at any time a request is made.

### ***Surety Bond Requirements***

The CDDTL requires that each licensee maintain a surety bond in the amount of \$25,000 at all times. Additional bond amounts are not required for licensees with multiple locations. Upon receiving a notice of cancellation from the surety bond insurance company, the Department will notify the licensee that a replacement bond or reinstatement notice must be submitted prior to the effective date of the cancellation. Failure to submit a replacement bond or reinstatement notice to the Department prior to the cancellation of the surety bond will result in the suspension or revocation of the license.

### ***Change Of Address/Surrender Of License***

A licensee is required to notify the Department in writing at least ten (10) days prior to the change of address for a licensed location. The Department will approve the change in location by issuing an amended license with the new address. The Commissioner may assess a civil penalty not to exceed

\$500 for failure to notify the Department in writing at least ten (10) days prior to a change in the location of a licensee.

In the license application, the applicant is asked to indicate the name and address of the person who should be contacted regarding the application. The address provided does not have to be a licensed location. After the license is issued, the Department will direct all correspondence to this address, including but not limited to: annual assessment notices, annual report forms, regulatory examination notices, regulatory letters, bond cancellations, bulletins, and other Departmental information. Each licensee is requested to notify the Department in writing if there is a change in address for receiving Departmental correspondence.

The license issued by the Department under the CDDTL does not need to be renewed. The license remains in effect until it is surrendered, suspended or revoked. Any licensee may apply to surrender a license by delivering to the Commissioner written notice of the intent to surrender the license. The application to surrender the license must be signed by an authorized representative of the licensee and include the original license. The Department will not issue a new license for a location that is already licensed. The existing license must be surrendered prior to the issuance of the new license for that location.

### ***Assignment of License/Application Amendments***

The license issued under the CDDTL is not transferable or assignable. For example, a license issued to an individual cannot be transferred to a corporation, even if the individual is the sole shareholder, officer and director of the corporation. In like manner, a corporation cannot transfer the license to an individual, limited liability company or a partnership. If there is a change in entity type, a new long form license application and new short form license applications for any additional locations would have to be filed for the new entity.

A license issued to a partnership or limited partnership is not transferred or assigned by the death, withdrawal or admission of a partner, general partner or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued. If the change dissolves the partnership, a new long form license application and new short form license applications for any additional locations would have to be filed for the new partnership.

A licensee is required to notify the Department of any change of its officers, directors or any persons named in the application within sixty days from the date of the change. The amendment to the original license application reflecting the change shall include the effective date of the change and the names of the persons involved in the change. The new persons are required, at a minimum, to submit Statement of Identity and Questionnaires and fingerprint information with the notification of the change.

### ***License Requirements Based On Location***

Any person that offers, originates or makes a deferred deposit transaction, arranges a deferred deposit for a deferred deposit originator, acts as an agent for a deferred deposit originator, or assists a deferred deposit originator in the origination of a deferred deposit is required to obtain a license

from the Department of Corporations. Please note that "person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government entity, or a political subdivision of a government entity. No licensee shall transact the business licensed or make any transaction provided for under the CDDTL under any other name or at any other place of business than that named in the license.

A person located in California planning to engage in the business of making deferred deposit transactions over the Internet only to residents in other states is required to obtain a license under the CDDTL from the Department. A person not located in California planning to engage in the business of making deferred deposit transactions over the Internet to residents in California is also required to obtain a license under the CDDTL from the Department.

### ***License Requirements for Additional Locations***

A person applying for a license must first file the Department of Corporations' "Application for A License Under the California Deferred Deposit Transaction Law", commonly referred to as the long form application. Thereafter, the same person seeking a license for additional locations may file the short form license application. Each mobile unit conducting deferred deposit transactions is required to be licensed by the Department under the CDDTL. The application forms are available through the Department's website, at any of the Department's office locations or by calling the Department at 1-(866) ASK-CORP (275-2677). The Department will not issue a new license for a location that has an existing license. The existing license must be surrendered prior to the issuance of the new license at the same location.

### ***Sale Or Transfer Of Deferred Deposit Transactions***

If a licensee sells or otherwise transfers the debt at a later date, the licensee is required to clearly disclose in a written agreement that any debt or checks held or transferred pursuant to a deferred deposit transaction made pursuant to Section 23035 of the California Financial Code are not subject to the provisions of Section 1719 of the Civil Code and that no customer may be required to pay treble damages if the check or checks are dishonored.

If a deferred deposit transaction is sold, transferred or assigned within the same business outside the State for any reason, or to an affiliate wherever located for any reason, the licensee is required to maintain at its licensed location the original or exact copy of the deferred deposit transaction agreement, any other disclosure statements, payment record and a record identifying the deferred deposit transaction, the date of transfer, and the name and location of the receiving office. However, if a loan is sold, transferred, or assigned to another licensed location of the same business within the State of California, the sending office need maintain only a record identifying the deferred deposit transaction, the date of transfer, and the receiving office. The licensed location receiving that deferred deposit transaction shall maintain the required documents in its files. If a deferred deposit transaction is sold, transferred or assigned to an unaffiliated entity, the licensee relinquishing the deferred deposit transaction is required to maintain at its licensed location the original or an exact copy of the deferred deposit transaction agreement and all papers and other documents relating to such transaction, including evidence of the check.

### ***Advertising Requirements/Licensure Disclosure***

Licensees are not allowed to advertise, print, display, publish, distribute or broadcast or cause to be broadcast, in any manner, any statement or representation with regard to the deferred deposit transaction business, including the rates, terms, or conditions for making or negotiating deferred deposit transactions, that is false, misleading or deceptive or that omits material information that is necessary to make the statements not false, misleading or deceptive. Licensees are required to maintain a file of all advertising copy for a period of 90 days from the date of its use.

All advertising for a deferred deposit transaction must include a disclosure in the printed text of an advertisement, or the oral text in the case of radio or television advertisement, that the licensee is licensed by the Department of Corporations pursuant to the California Deferred Deposit Transaction Law. California and Department may be abbreviated. A licensee is not required to place the licensure disclosure on signs located on the exterior of the licensed location.

## ***Guidelines For Complying with the California Deferred Deposit Transaction Law***

The following information about a licensee's obligations and responsibilities regarding certain requirements of the California Deferred Deposit Transaction Law (CDDTL) and the rules and regulations of the Commissioner is provided for your reference. This information is based on questions received from the licensees, complaints filed by customers and exceptions discovered during regulatory examinations. This information is not however meant to enumerate all of a licensee's obligations and responsibilities under the law and the Commissioner's rules and regulations. Consequently, a licensee should be familiar with all provisions of the law and the rules and regulations.

The California Deferred Deposit Transaction Law is contained in Division 10 of the California Financial Code beginning at Section 23000 et seq. Regulations are contained in Chapter 3, Title 10 of the California Code of Regulations, beginning at Section 2020 et. seq. The California Deferred Deposit Transaction Law may be obtained from the Official California Legislative Information website at <http://www.leginfo.ca.gov/calaw.html>. The Regulations are available from the Office of Administrative Law's website at <http://www.oal.ca.gov/>. There are also other websites available which may provide this information, or it may be purchased from various vendors. Public libraries may also have copies of the law and regulations.

- ***Agreements, disclosures and notices***

- A. A license, along with any currently effective order of the commissioner approving a different name, shall be conspicuously posted in the place of business authorized by the licensee.
- B. The following notices are required to be clearly and conspicuously posted in the unobstructed view of the public by all licensees in each location of a business providing deferred deposit transactions in letters not less than one-half inch in height:
  - 1. The licensee cannot use the criminal process against a consumer to collect any deferred deposit transaction.
  - 2. A complete, detailed, and unambiguous schedule of fees.

3. The schedule of all charges and fees to be charged on those deferred deposit transactions with an example of all charges and fees that would be charged on at least a one-hundred-dollar (\$100) and a two-hundred-dollar (\$200) deferred deposit transaction, payable in 14 days and 30 days, respectively, giving the corresponding annual percentage rate. The information may be provided in a chart as follows:

Amount Provided	Fee	Amount of Check	14-day APR	30-day APR
\$100	XX	XXX	XXX	XXX
\$200	XX	XXX	XXX	XXX

- C. Before entering into a deferred deposit transaction, the licensee is required to distribute to the customers a notice that includes, but is not limited to, the following:

1. Information about charges for deferred deposit transactions.
2. That if the customer's check is returned unpaid, the customer may be charged an additional fee of up to fifteen dollars (\$15).
3. That the customer cannot be prosecuted in a criminal action in conjunction with a deferred deposit transaction for a returned check or be threatened with prosecution.
4. The Department's toll-free telephone number, which is 1-(866) ASK-CORP (275-2677) for receiving calls regarding customer complaints and concerns.
5. That the licensee may not accept any collateral in conjunction with a deferred deposit transaction.
6. That the check is being negotiated as part of a deferred deposit transaction made pursuant to Section 23035 of the Financial Code and is not subject to the provisions of Section 1719 of the Civil Code. No customer may be required to pay treble damages if this check does not clear.

This notice is required to be written and available in the same language principally used in any oral discussions or negotiations leading to the execution of the deferred deposit agreement and must be in at least 10-point type. The licensee is responsible for maintaining evidence that the notice was provided to the customer **prior** to entering into the deferred deposit transaction.

- D. An agreement to enter into a deferred deposit transaction is required to be in writing and shall be provided by the licensee to the customer. The agreement is required to be

written in the same language principally used in any oral discussions or negotiations leading to the execution of the deferred deposit agreement and must be in at least 10-point bold type. The written agreement shall authorize the licensee to defer deposit of the personal check, shall be signed by the customer and the licensee (or an authorized representative of the licensee), and shall include all of the following:

1. A full disclosure of the total amount of any fees charged for the deferred deposit transaction, expressed both in United States currency and as an APR as required under the Federal Truth In Lending Act and its regulations.
2. A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations.
3. The name, address, and telephone number of the licensee.
4. The customer's name and address.
5. The date to which deposit of check has been deferred (due date).
6. The payment plan, or extension, if applicable.
7. An itemization of the amount financed as required under the Federal Truth In Lending Act and its regulations.
8. Disclosure of any returned check charges.
9. That the customer cannot be prosecuted or threatened with prosecution to collect.
10. That the licensee cannot accept collateral in connection with the transaction.
11. That the licensee cannot make a deferred deposit transaction contingent on the purchase of another product or service.
12. Signature space for the customer and signature of the licensee or authorized representative of the licensee and date of the transaction.

- ***Maintenance of Books and Records***

Each licensee is required to keep and use books, accounts and records that will enable the Commissioner to determine if the licensee is complying with the CDDTL and the Commissioner's rules and regulations. The licensees are required to maintain the books, records and accounts in accordance with generally accepted accounting principles and good business practices. The Commissioner or a designee of the Commissioner may examine those records at any time. All records must be kept for at least two years following the last entry on a deferred deposit transaction and shall enable an examiner to review the recordkeeping and reconcile each customer deferred deposit transaction with documentation maintained in the consumer's deferred deposit transaction file records.

A licensee with multiple locations is required to maintain separate deferred deposit transaction records for each licensed business location. A licensee is further required to maintain separate deferred deposit transaction records from those records maintained by any other business that is transacted at the same office, room, or place of business. A licensee is permitted to maintain one bank account or one database for all licensed locations, provided that the records of each licensed location can be identified and distinguished.

The books, records and accounts may be retained and provided to the Commissioner in electronic format provided that the electronic records are maintained and provided in a format that allows the Commissioner complete access to all of the books, accounts and records. The electronic records must be maintained in a media that ensures reliable, credible, accurate and auditable records. The electronic records must be provided to the Commissioner in a software format that is acceptable to the Commissioner and allows Commissioner to download and print any or all of the records that are stored and maintained electronically. The licensee shall provide any and all records maintained in electronic format in printed form if the electronic records are *not* in a format that enables the Commissioner to determine if the licensee is complying with the CDDTL or rules there under.

A licensee is required to maintain the following books, records and accounts at the licensed place of business disclosed in the long form license application, provided that the records at each additional location are available within 24 hours of a request:

1. Quarterly unaudited balance sheets demonstrating compliance with the minimum net worth requirement of \$25,000.
2. Records demonstrating compliance with the surety bond requirement of \$25,000.
3. List of licensed locations by address and license number.
4. Advertising file.
5. Bank or other financial institution statements.
6. Any other records identified by written demand of the Commissioner.

The records listed below are required to be maintained at each licensed business location for each deferred deposit transaction. The advertising file and bank or other financial institution statements may be maintained at each licensed location in lieu of the location provided in the long form license application. The records listed below that are older than 90 days may be maintained at a non-licensed location, provided that the records are made available to the Commissioner within 48 hours of a request. If requested, the licensee shall provide the Commissioner with the address of the location of the books, records and accounts maintained at a location other than the licensed location, and, if applicable, the identity of the person with custody of the records.

1. Deferred deposit transaction agreement.
2. Evidence of the check.

3. The written notice the licensee is required to distribute to the customers before entering into a deferred deposit transaction.
4. Written payment plans and extensions.
5. Record of time periods for each transaction.
6. Record of transaction fees and charges.
7. Record of transaction payments.

- ***Depositing Checks***

The CDDTL defines a deferred deposit transaction as a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement, as provided by California Financial Code Sections 23035. Accordingly, the written agreement should cover the manner in which a customer's check will be deposited and the specific date of deposit. For example, when the licensee elects to deposit a personal check by electronic means, the written agreement should specify that the licensee electronically deposits the customer's check. If the licensee wishes to deposit the check either manually or electronically when there are insufficient funds in the customer's account, the written agreement should also specify the method and date of depositing the check under those circumstances. Please remember that a single fee not to exceed a total of \$15 may be charged if there are insufficient funds in the customer's account.

The Department continues to research whether federal or state law prohibits or limits re-depositing a check in cases of insufficient funds, and we invite you to express your views on this topic. Please send to Steven Thompson any written comments or other information, including any legal authority, to help us determine whether any re-depositing practice is unlawful under existing law.

- ***Extensions and payment plans***

The licensee may agree, though is not required, to extend the due date of a loan or enter into an agreement to allow the customer to make payments on an outstanding loan. A licensee is prohibited from charging additional fees or charges of any kind in conjunction with the extension or payment plan. The extension or payment plan must be included in the agreement or in an addendum to the agreement that is in writing signed by the borrower, by fax with the borrower's signature or electronically authorized by the borrower over the Internet.

- ***Small claims court actions***

The Small Claims Court Judge hearing the case will determine if court costs and filing fees will be awarded to the licensee. The Deferred Deposit Transaction Agreement may not contain any provisions that require the customer to pay court costs or filing fees in conjunction with an action taken by the licensee to collect a delinquent account.

- ***Collection practices***

Licenses under the CDDTL are subject to the California Fair Debt Collection Practices Act (California Civil Code, commencing with Section 1788). Refer to the California State Attorney General's website at <http://caag.state.ca.us/consumers/general/collect.htm> for additional information regarding the Fair Debt Collections Act. Licensees may also contact the Federal Trade Commission, which enforces the Federal Fair Debt Collections Practices Act, by mail at Consumer Response Center, Washington, DC 20580-0001 or telephone at 1(877)-FTC-Help.

- ***Prohibited acts and limitations***

A. The face amount of the customer's personal check or the electronic equivalent of the customer's personal check may not exceed \$300 and the fee charged may not exceed 15% of the face amount of the check. For example, for a check in the amount of \$300, the licensee may charge a maximum fee of \$45, and the borrower would receive \$255. For a check in the amount of \$100, the licensee may charge a maximum fee of \$15, and the borrower would receive \$85. For a check in the amount of \$117.65, the licensee may charge a fee up to \$17.65, and the borrower would receive \$100.

A single fee not to exceed \$15 may be charged for a returned check. No additional fees may be added for late payments or returned checks. A licensee is prohibited from charging any fees directly or indirectly other than those fees allowed under the CDDTL.

B. There are no limitations on the number of deferred deposit transactions a licensee may make to a customer in any given period of time. A licensee cannot make a new deferred deposit transaction during the period an earlier deferred deposit transaction is in effect for the same customer and the proceeds of a new deferred deposit transaction may not be used to pay off an existing deferred deposit transaction from the same licensee.

A licensee cannot enter into a deferred deposit transaction with a customer during the period an earlier deferred deposit transaction is in effect for the same customer, including transactions where the existing deferred deposit transaction and the new deferred deposit transaction does not exceed the maximum amount allowed of \$300. Licensees with multiple locations cannot enter into a deferred deposit transaction with a customer during the period an earlier deferred deposit transaction is in effect for the same customer at any of the licensee's locations. Licensees with multiple locations cannot use the proceeds of a new deferred deposit transaction to pay of an existing deferred deposit transaction for the same customer at any of the other licensee's locations.

C. A licensee is not permitted to accept or use a customer's personal check or a customer's electronic equivalent of a personal check received from a previous deferred deposit transaction for a new deferred deposit transaction. A licensee cannot accept more than one check for a single deferred deposit transaction.

- D. A licensee cannot accept collateral in conjunction with a deferred deposit transaction and is not allowed to make deferred deposit transactions contingent on the purchase of other services or products.
- E. A customer cannot be criminally prosecuted or threatened with criminal prosecution to collect a delinquent deferred deposit transaction. A check that is being negotiated as part of a deferred deposit transaction is not subject to the provisions of Section 1719 of the Civil Code. Therefore, no person shall be required to pay treble damages if the check does not clear.
- F. A licensee is prohibited from depositing the borrower's check or debiting the borrower's account electronically for payment of a deferred deposit transaction prior to the due date on the agreement, unless an earlier date is authorized by the borrower. The authorization for early deposit of the check or early electronic debit of the borrower's account must be in writing and signed by the borrower, by fax with the borrower's signature or electronically authorized by the borrower over the Internet.
- G. A licensee is prohibited from altering the date on a check or from taking any check, instrument or form in which blanks are left to be filled in after execution.
- H. Under no circumstances shall a deferred deposit transaction agreement include any of the following:
  - 1. A hold harmless clause.
  - 2. A confession of judgment clause or power of attorney.
  - 3. Any assignment of or order for payment of wages or other compensation for services.
  - 4. Any acceleration provision.
  - 5. Any unconscionable provision.

## ***Enforcement Actions***

The Department has taken the following disciplinary actions under the CDDTL. The orders are available on the Department's website at <http://www.corp.ca.gov>.

<b>Respondent</b>	<b>Effective Date</b>	<b>Order</b>
Alan Cordero Enterprises, Inc. doing business as Arjay Financial Services	February 6, 2006	Order revoking CDDTL licenses for failure to pay annual assessment pursuant to Financial Code Section 23016 (four locations)
Alta Dena Express Kausik Manilal Patel Sunita Rancchodlal Patel	July 19, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Alta Dena Express	August 5, 2005	Order Denying California Deferred Deposit Transaction Law License Applications (two applications)
Always Approved, Inc.	February 13, 2006	Order revoking CDDTL licenses for failure to pay annual assessment pursuant to Financial Code section 23016 (four locations)
Laura and Jonathan Kitchell dba Angels Camp Cash	January 23, 2006	Order revoking CDDTL license for failure to pay annual assessment pursuant to Financial Code section 23016
Anyday's Payday and Loan George Starkey	June 2, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Georgianne Taunton; Georgianne Taunton dba Cash 2 Loan; Cash 2 Loan	March 13, 2006	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Nadia Haddad dba Cash It Quick	August 25, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Charlie Hinds Hindsco, Inc. Hindsco, Inc. dba Cash Now Santa Rosa	August 3, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Nirbhai Singh dba Check And Cash	August 25, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL (two

Respondent	Effective Date	Order
Savario Lani dba Check Exchange	July 6, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL (four locations)
	December 14, 2005	Order denying California Deferred Deposit Transaction License Applications (four license applications)
Mike Lopez Chex Check Cashing Mike Lopez dba Chex Check Cashing	July 20, 2005	Order to Desist and Refrain from engaging deferred deposit transaction business without a license under the CDDTL
	August 24, 2005	Order Denying California Deferred Deposit Transaction Law License Applications
D & J Market Suhail Mahho	June 2, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Express Cash Advance Bianca Soto	June 2, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
High Speed Cash	February 13, 2006	Order revoking CDDTL license for failure to pay annual assessment pursuant to Financial Code section 23016
K & W Check Cashing Mason Khattat	June 2, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Chuma Megafu Megafu Enterprises dba In N Out Cash Express (aka In and Out Cash Express)	June 24, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
	August 17, 2005	Order Denying California Deferred Deposit Transaction Law License Application
Majal Corporation dba Majal Check Cashing; Ida Lodriguito Cabrera aka Ida Z Lodriguito; Pamela Samson-Cabrera; Mary Ann Cabrera Barantis; Rubendaro Cabrera III	March 17, 2006	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Money Mart Express, Inc.	June 24, 2005	Order to Discontinue Violations Pursuant to Financial Code Section 23050
V & M Investments dba Mail Depot	June 24, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Summerfield Ventures, Inc. dba Pay Check Advance Paul Summerfield	August 3, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL (two locations)
Pro Check Cashing Yogesh Hiralal	June 2, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL
Amarjit Singh Dulkoan	February 28, 2006	Order to Desist and Refrain from engaging in deferred deposit

Rapid Cash RapidCash, Inc. Payday Services		transaction business without a license under the CDDTL
Kam Haghi dba T & T Financial Services	February 13, 2006	Order revoking CDDTL license for failure to pay annual assessment pursuant to Financial Code section 23016
The Payday Store Leobardo Munoz	July 20, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL

<b>Respondent</b>	<b>Effective Date</b>	<b>Order</b>
Transpacific Currency Services, Inc. dba Transpacific Currency Services Lawrence O' Boyle	August 17, 2005	Citation in amount of \$17,500 and Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL (6 locations)
Zippy's Currency X-Change, Inc. dba Power Check Cashing And Payday Advance and Zippy's #2	September 6, 2005	Order to Desist and Refrain from engaging in deferred deposit transaction business without a license under the CDDTL (two locations)

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ADVISORY COMMITTEE MEMBERS**

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