
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 728 (Padilla) - California Consumer Financial Protection Law: commercial financing

Version: April 24, 2025

Urgency: No

Hearing Date: May 5, 2025

Policy Vote: B. & F.I. 5 - 0, JUD. 12 - 0

Mandate: No

Consultant: Janelle Miyashiro

Bill Summary: SB 728 creates a registration program under the California Consumer Financial Protection Law (CCFPL), to be administered by the Department of Financial Protection and Innovation (DFPI), for persons offering commercial financing or commercial financing brokerage services to California residents, as specified.

Fiscal Impact: Unknown likely significant costs for DFPI to establish and implement the new registration program (Financial Protection Fund). Actual costs to DFPI will depend on, among other things, the number of businesses offering these specified commercial financing products in California who would be required to register with the department. Registration fee revenue will offset DFPI's administrative and enforcement activities to some extent; however, the department's main fund, the Financial Protection Fund, is facing growing cost pressures (see staff comments).

Background: The CCFPL provides baseline legal protections for small businesses in financing markets. In 2020 the Legislature passed AB 1864 (Limón, Chapter 157, Statutes of 2020), enacting the CCFPL, which includes a provision authorizing DFPI to issue regulations that define unfair, deceptive, and abusive acts and practices (UDAAPs) in connection with the offering or provision of commercial financing to small business recipients, nonprofits, and family farms. DFPI finalized that rule in August 2023, providing the department with authority to take enforcement actions related to UDAAPs in small business financing markets.

In addition to the small business UDAAP provision, the CCFPL provides authority to DFPI to require registration of covered persons providing consumer financial products or services in the state. This bill builds on the CCFPL by requiring providers of certain commercial financing products to be registered under the law.

Proposed Law:

- Beginning January 1, 2027, prohibits a person from engaging in the business of offering to provide or providing commercial financing products to California residents without first registering with DFPI.
- Imposes the following restrictions and requirements on a commercial financing provider or a commercial financing broker (collectively, a "covered entity"):
 - A covered entity shall not take a confession of judgment or any power of attorney at any time before a default by a recipient under the terms of a commercial financing transaction agreement or contract.

- A covered entity shall not include a provision in a commercial financing transaction agreement or contract that authorizes a covered entity to attach or garnish any of a recipient's money held in an account in a depository institution.
- A commercial financing transaction found to be unconscionable pursuant to Civil Code section 1670.5 shall be deemed in violation of the CCFPL and subject to the CCFPL's remedies.
- A covered entity shall not include a provision in a contract or agreement with a recipient that limits or restricts the recipient from disclosing information that the recipient gains from the recipient's business activities with the registrant, including, but not limited to, terms or conditions of a product or service offered by the registrant.
- A commercial financing broker shall clearly and conspicuously display on their website the average and maximum percentage rates for the commercial financing transactions facilitated by them in the most recent calendar year.
- By January 1, 2027, requires DFPI to prescribe rules regarding registration requirements applicable to covered persons seeking to offer or provide commercial financing products.
- Adds definitions to the CCFPL related to the new registration program.
- States legislative findings and declarations.
- Makes other technical and conforming changes.

Related Legislation: SB 1482 (Glazer, 2024) would have provided a registration program under the CCFPL for persons providing commercial financing or commercial financing brokerage services to California residents. SB 1482 died on the Assembly inactive file.

SB 869 (Glazer, 2023) would have expanded the scope of the California Financing Law to cover specified commercial financing transactions offered to small businesses and would have established requirements and prohibitions on commercial financing providers and brokers engaged in such transactions. SB 869 was held on the Suspense File in this committee.

Staff Comments: Generally, when the DFPI establishes a new regulatory program it will cover those start-up costs through the Financial Protection Fund. Once the program is fully operational, the DFPI will recoup those costs through that program's licensing fees, fines, penalties, settlements, or judgements. While this bill does not propose a brand new licensing law, the expansion of the CCFPL to cover persons offering commercial financing or commercial financing brokerage services to California residents as proposed by this bill may lead to a significant number of new registrants. The DFPI will likely need additional resources to meet this bill's mandates as the DFPI's responsibilities and workload have increased in recent years with the enactment of the commercial financing disclosure rules (2018), the California Consumer Financial

Protection Law (2020), the Debt Collector Licensing Act (2020), and the Digital Financial Assets Law (2023).

The Financial Protection Fund's revenues are generated by licensing and registration fees, program assessments (charges levied on regulated entities to cover oversight costs), and examination fees (to cover costs associated with specific audits or inspections). A DFPI fund condition report released in February of this year indicates the Financial Protection Fund will become insolvent toward the end of Fiscal Year 2025-26, and faces growing deficits in future years.

The 2025-26 Governor's Budget proposes trailer bill language to increase programmatic fees and adjust assessments for specified DFPI regulatory programs.

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