RE: INVITATION FOR COMMENTS (PRO 04/08)

The signatories listed below write this letter in response to the Department of Business Oversight’s Invitation for Comments on Proposed Rulemaking under the California Deferred Deposit Transaction Law (PRO 04/08).

The undersigned are in support of the DBO’s most recent changes to the draft text, which would help protect consumers from some of the most dangerous payday loan practices, including electronic access to a borrower’s checking account, and the extension of multiple loans to the same consumer at one time. The changes would clarify the legally permitted payment method by which payday loans can be secured in California, and would provide the Department with a sorely needed enforcement mechanism to ensure industry compliance with the Deferred Deposit Transaction Law’s “one loan at a time” provision.

1. **Payday loans are dangerous and harmful.** Payday loans are designed to create a long term debt trap. Because payday lenders do not underwrite to determine whether borrowers have the ability to repay the loans, the typical California borrower gets trapped in debt and takes an average of 7-10 payday loans per year. Academic researchers studying payday lending have found that taking a payday loan leads to significant economic harms even beyond the debt trap for payday borrowers, including higher default rates, more credit card or other delinquencies, more overdrafts and loss of bank accounts.

2. **We support the prohibition by regulation of the use of electronic fund transfers, including Automated Clearing House transactions; prepaid debit cards; debit cards; remotely created checks; remotely created purchase orders; and credit cards in a deferred deposit transaction for any purpose, including in the origination, funding or repayment of a payday loan.** We agree that these modes of transaction are not permitted under existing law, which refers only to “a transaction whereby a person defers depositing a customer’s personal check,” and that the Department, therefore, is right to clarify that the CDDTL does not authorize these alternative payment methods. By restricting the use of these transactions, the DBO will help put a check on the unlawful expansion of payday loans that has occurred in recent years, and will limit the population of payday loan consumers who might be harmed by the payday loan debt trap.

3. **We support the Department’s proposal to establish a common industrywide database for tracking payday loan transactions, and enforcing violations of the**
The short-term, high-cost, balloon payment structure of payday loans already poses significant financial risk for consumers. The extension of multiple payday loans by different lenders to the same consumer only worsens the consumer’s financial situation, and makes it more difficult for the consumer to spring the payday loan debt trap. California law specifically provides that a lender shall not make a payday loan to someone who already has one outstanding, but the regulator has not had the ability to enforce this historically. A database would enable licensees to determine whether the loan applicant already has an outstanding payday loan across the spectrum of lenders, and is a necessary tool to enforce the existing statute. The DBO has the authority to establish the data in furtherance of its enforcement and oversight responsibilities.

We urge the Department to proceed with these changes, and we appreciate the Department’s leadership.

Sincerely,

California Coalition for Rural Housing (CCRH), Statewide Organization
Monica Palmeira, Policy and Programs Specialist, monica@calruralhousing.org

California Community Economic Development Association (CCEDA), Statewide Organization
Ralph Lippman, Executive Director, ralph@cceda.com

Community Legal Services of East Palo Alto (CLSEPA), East Palo Alto
Keith Ogden, Esq., Staff Attorney, Anti-Predatory Lending and Home Foreclosure Prevention Keith@clsepa.org

Consumer Action, National Organization
Joe Ridout, Consumer Services Manager, joseph.ridout@consumer-action.org

East Bay Community Law Center (EBCLC), Alameda County
Sharon Djemal, Director, Consumer Justice Clinic, sdjemal@ebclc.org

East LA Community Corporation (ELACC), Los Angeles
Elba Schilderout, Homeownership Housing Counselor, Wealth Building Department eschilderout@elacc.org

Fair Housing Council of San Fernando Valley, Los Angeles
Sharon Kinlaw, Executive Director, skinlaw@fairhousingcouncil.org

Faith In Community (FIC), Fresno
Andy Levine, Executive Director, andy@ficpico.org

Family Asset Building Coalition* (FABC), San Diego
Nicole Heesen, Director of Employment and Housing, North County Lifeline and FABC Chair nheesen@nclifeline.org
*Note: Family Asset Building Coalition members include Community Housing Works, MAAC, International Rescue Committee, Home Start, North County Lifeline and Dreams for Change.

Labor Community Services, AFL-CIO, Los Angeles
Taro O’Sullivan, Executive Director, tsullivan@unitedwayla.org

Mission Economic Development Agency (MEDA), San Francisco
Gabriel Medina, Policy Manager, gmedina@medasf.org

Montebello Housing Development Corporation (MHDC), Montebello
Renee Chavez, Operations Manager, reneecmhdc@gmail.com

National Consumer Law Center (NCLC), National Organization
Lauren Saunders, Associate Director, lsaunders@nclc.org

Neighborhood Housing Services Silicon Valley, Santa Clara County
Matt Huerta, Executive Director, mhuerta@nhssv.org

Public Counsel, Los Angeles
Pat Dunlevy, Directing Attorney, Consumer Law, pdunlevy@publiccounsel.org

Public Good Law Center, Statewide/ National Organization
Ted Mermin, Executive Director, tmermin@publicgoodlaw.org

Public Interest Law Firm, a project of the Law Foundation of Silicon Valley, Santa Clara County
James Zahradka, Supervising Attorney, JamesZ@lawfoundation.org

United Ways of California, Statewide Organization
Judy Darnell, Vice President of Public Policy, jdarnell@unitedwaysca.org

United Way Silicon Valley (UWSV), Santa Clara County
Wendy Ho, Advocacy and Public Policy Program Manager, wendy.ho@uwsv.org

Valley Economic Development Center (VEDC), National Organization
Leticia Rodriguez, Government and Business Relations Manager, lrodriguez@vedc.org

Youth Leadership Institute, Statewide Organization
Fahad Qurashi, Senior Director of YLI San Mateo County Programs, fquarashi@yli.org