

Case No. S241434

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

EDUARDO DE LA TORRE and LORI SAYSOURIVONG, individually
and on behalf of all others similarly situated,

Plaintiffs/Petitioners,

v.

CASHCALL, INC.,

Defendant/Respondent

**SUPREME COURT
FILED**

AUG 14 2017

Jorge Navarrete Clerk

Deputy

On Certified Question from the United States Court of Appeals for the Ninth Circuit
Pursuant to California Rule of Court 8.548
Ninth Circuit Case Nos. 14-17571, 15-15042

**PETITIONERS' MOTION FOR JUDICIAL NOTICE;
SUPPORTING DECLARATION OF COUNSEL**

STEVEN M. TINDALL (SBN: 187862)

ANDRE M. MURA (SBN: 298541)

smt@classlawgroup.com

amm@classlawgroup.com

GIBBS LAW GROUP LLP

505 14th Street, Suite 1110

Oakland, CA 94612

Telephone: (510) 350-9700

Facsimile: (510) 350-9701

*Attorneys for Plaintiffs/Petitioners
(Additional Attorneys for Petitioners listed on the following page)*

JAMES C. STURDEVANT (SBN: 94551)

jsturdevant@sturdevantlaw.com

THE STURDEVANT LAW FIRM

A Professional Corporation

4040 Civic Center Drive

Suite 200

San Rafael, CA 94903

Telephone: (415) 477-2410

Facsimile: (415) 492-2810

ARTHUR D. LEVY (SBN: 95659)

arthur@yesquire.com

LAW OFFICE OF ARTHUR D. LEVY

1814 Franklin Street

Suite 1040

Oakland, CA 94612

Telephone: (415) 702-4551

Facsimile: (415) 814-4080

JESSICA RIGGIN (SBN 281712)

jriggin@rukinhyland.com

RUKIN HYLAND LLP

100 Pine Street

Suite 2150

San Francisco, CA 94111

Telephone: (415) 421-1800

Facsimile: (415) 421-1700

DAMON M. CONNOLLY (SBN 139779)

damon@damonconnollylaw.com

LAW OFFICES OF DAMON M. CONNOLLY

1000 4th Street

Suite 600

San Rafael, CA 94901

Telephone: (415) 256-1200

Attorneys for Plaintiffs/Petitioners

Case No. S241434

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

EDUARDO DE LA TORRE and LORI SAYSORIVONG, individually
and on behalf of all others similarly situated,

Plaintiffs/Petitioners,

v.

CASHCALL, INC.,

Defendant/Respondent

On Certified Question from the United States Court of Appeals for the Ninth Circuit
Pursuant to California Rule of Court 8.548
Ninth Circuit Case Nos. 14-17571, 15-15042

**PETITIONERS' MOTION FOR JUDICIAL NOTICE;
SUPPORTING DECLARATION OF COUNSEL**

STEVEN M. TINDALL (SBN: 187862)

ANDRE M. MURA (SBN: 298541)

smt@classlawgroup.com

amm@classlawgroup.com

GIBBS LAW GROUP LLP

505 14th Street, Suite 1110

Oakland, CA 94612

Telephone: (510) 350-9700

Facsimile: (510) 350-9701

Attorneys for Plaintiffs/Petitioners

(Additional Attorneys for Petitioners listed on the following page)

Pursuant to Rule 8.252 of the California Rules of Court, Evidence Code section 452, subd. (c), and Evidence Code section 459, Petitioners hereby respectfully request that the Court take judicial notice of the following documents excerpted from the legislative history of Senate Bill 447, introduced and passed in the 1985-86 Regular Session of the California Legislature and chaptered as Stats. 1985, ch. 552:

1. Exhibit "A" attached to this Motion, a true and correct copy of Senate Bill 447 as introduced by Senator Rose Ann Vuich on February 19, 1985.

2. Exhibit "B" attached to this Motion, a true and correct copy of Senate Bill 447 as amended by Senator Vuich on May 1, 1985.

3. Exhibit "C" attached to this Motion, a true and correct copy of the Senate Final History of Senate Bill 447 in the 1985-86 Regular Session of the California Legislature.

4. Exhibit "D" attached to this Motion, a true and correct copy of a letter from Allen Sumner, Senior Assistant Attorney General of the State of California on behalf of John K. Van de Kamp, Attorney General of the State of California, dated June 28, 1985, to Senator Vuich regarding Senate Bill 447.

5. Exhibit "E" attached to this Motion, a true and correct copy of Senate Bill 447 as amended by Senator Vuich on July 10, 1985.

6. Exhibit "F" attached to this Motion, a true and correct copy of a letter from Senator Vuich to Governor Deukmejian, dated August 29, 1985, requesting his signature on Senate Bill 447.

7. Exhibit "G" attached to this Motion, a true and correct copy of Chapter 552 of the 1985 California Session laws, reflecting Senate Bill 447 as enacted.

8. Exhibit "H" attached to this Motion, a true and correct copy of the Enrolled Bill Report for Senate Bill 447 (Ex. "H") from the regulatory agency overseeing California Finance Lenders at the time, the Department of

Corporations (“DOC”).

Petitioners request judicial notice of these documents because the legislative history of Financial Code sections 22302 and 22303, and specifically Senate Bill 447 (1985), are pertinent to the question certified by the Ninth Circuit, which requires construction of those two code provisions. These materials were not submitted to the District Court in the underlying federal litigation or to the Ninth Circuit on appeal.

AUTHORITY

Evidence Code section 459, subd. (a), authorizes this Court to take judicial notice of matters covered by Evidence Code section 452. Evidence Code section 452 states, in pertinent part:

Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:

...

(c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.

The Court generally grants requests to take notice of legislative histories, and will consider legislative history material even if the Court may ultimately find some or all not to be helpful in ascertaining legislative intent. (*Jones v. Lodge at Torrey Pines Partnership* (2008) 42 Cal. 4th 1158, 1163, 1173 n. 5.)

The original and amended versions of S.B. 447 (Ex. “A”, “B,” and “E”) are official acts of the Legislature and, as such, are judicially noticeable. The same is true of the session law, which reflects the enacted version of the bill. (Ex. “G.”) The Final Senate History (Ex. “C”), the official record of the progress of the bill through both houses of the Legislature, is also properly noticeable. (*E.g., Post v. Priati* (1979) 90 Cal. App. 3d 626, 634 & n. 8.)

A letter concerning pending legislation is subject to judicial notice if it “was not an expression of [a legislator’s] own opinion . . . but a reiteration of the discussion and events which transpired in the Assembly committee hearing when the amendments . . . were under consideration.” (*In re Marriage of Bouquet* (1976) 16 Cal. 3d 583, 590, quoting *Rich v. State Board of Optometry* (1965) 235 Cal. App. 2d 591, 603 (ellipsis in original); *Cal. Teachers Ass’n v. San Diego Cmty. Coll. Dist.* (1981) 28 Cal. 3d 692, 700.)

Because the letters from the Attorney General to Senator Vuich (Ex. “D”) and from Senator Vuich to the Governor (Ex. “F”) reflect events that transpired in enactment of S.B. 447, the Court may take judicial notice of them. S.B. 447 was amended to add a new section, 24450.5 (now codified as section 22302), on July 10, 1985, just a few days after the Attorney General’s June 28 letter objecting to the then current version of the bill. (Ex. “D”, “E.”)

The Enrolled Bill Report (Ex. “H”) from the regulatory agency overseeing California Finance Lenders at the time, the Department of Corporations (“DOC”), confirms that “the only major argument against the bill” was the argument the Attorney General made in his June 28 letter, and that the legislative response to the Attorney General was that

the other consumer protection elements of the consumer finance lending laws remain intact as well as a new provision added by this bill which would provide that if a loan made under these laws is found unconscionable pursuant to Section 1670.5 of the Civil Code, it shall be deemed to be a violation of the consumer finance lender laws and thereby subject to the remedies of these laws.

The DOC’s reference to “the other consumer protection elements of the consumer finance lending laws remain[ing] intact” refers to the addition to the bill of former Financial Code 24450.5 (section 22302), confirming that the

unconscionability statute, Civil Code section 1670.5, “applies to the provisions of a loan contract that is subject to [the California Finance Lenders Law].” (Ex. “G”, § 4 (adding new section 24450.5, subd. (a)).)

The DOC report, together with the July 10 amendment to the bill (Ex. “E”) on the heels of the Attorney General’s letter (“Ex. “D”), establish that the “major argument” raised by the Attorney General, and the response as reported in Senator Vuich’s letter to the Governor, were “a reiteration of the discussion and events which transpired in the Assembly committee hearing when the amendments . . . were under consideration.” (*In re Marriage of Bouquet*, 16 Cal. 3d at 590.)

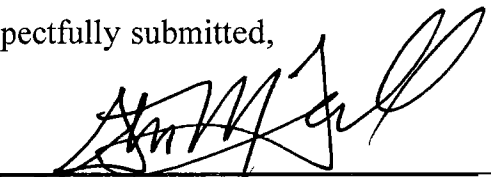
In *Martin v. Szeto* (2004) 32 Cal. 4th 445, 450, there were multiple letters explaining the intention underlying a bill. The Court held that because the “letters consistently explain that the amendment was offered to make the bill reciprocal, by providing that anyone defending against a frivolous action for libel or slander brought by a peace officer would also be able to receive an award of attorneys’ fees,” they were “entitled to consideration to the extent they constitute ‘a reiteration of legislative discussion and events leading to adoption of proposed amendments rather than merely an expression of personal opinion.’” (*Id.* at 450, citing *California Teachers Assn*, 28 Cal. 3d at 700.)

Similarly here, by confirming that the objections to SB 447 raised by the Attorney General were “the only major argument against the bill,” the DOC Enrolled Bill Report corroborates that Senator Vuich’s letter to the Governor reliably explained the Legislature’s intention in adding 24450.5 (section 22302), to the legislation. As such, Exhibits “D” and “F” are properly subject to judicial notice under section 452.

Petitioners respectfully request that the Court take Judicial Notice of Exhibits A through H hereto.

Dated: August 14, 2017

Respectfully submitted,

By: 

STEVEN M. TINDALL (SBN: 187862)
ANDRE M. MURA (SBN: 298541)
GIBBS LAW GROUP LLP
505 14th Street, Suite 1110
Oakland, CA 94612
Telephone: (510) 350-9700
Facsimile: (510) 350-9701

JAMES C. STURDEVANT (SBN: 94551)
THE STURDEVANT LAW FIRM
A Professional Corporation
4040 Civic Center Drive,
Suite 200
San Rafael, CA 94903
Telephone: (415) 477-2410

ARTHUR D. LEVY (SBN: 95659)
LAW OFFICE OF ARTHUR D. LEVY
1814 Franklin Street
Suite 1040
Telephone: (415) 702-4551
Facsimile: (415) 814-4080

JESSICA RIGGIN (SBN 281712)
RUKIN HYLAND LLP
100 Pine Street
Suite 2150
San Francisco, CA 94111
Telephone: (415) 421-1800
Facsimile: (415) 421-1700

DAMON M. CONNOLLY (SBN 139779)
LAW OFFICES OF DAMON M. CONNOLLY
1000 4th Street

Suite 600
San Rafael, CA 94901
Telephone: (415) 256-1200

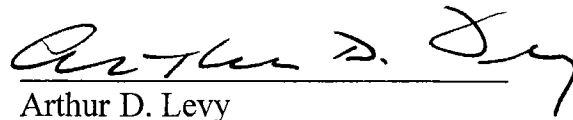
Attorneys for Plaintiffs/Petitioners

DECLARATION IN SUPPORT OF MOTION FOR JUDICIAL NOTICE

I, Arthur D. Levy, declare:

1. I am one of the counsel of record for Petitioners in this case.
2. In preparation for the filing of Petitioners' Opening Brief, I purchased the Legislative History of Senate Bill 447 (1985) from Legislative Intent Service on June 28, 2017.
3. The documents attached as Exhibits "A" through "H", inclusive, are true and correct copies of documents from the legislative history of S.B. 447 provided by Legislative Intent Service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of August 2017 at Oakland, California.


Arthur D. Levy

PROOF OF SERVICE

I am employed in the county of Alameda, State of California. I am over the age of 18 and not a party to the within action. My business address is: 505 14th Street, Suite 1110, Oakland, California 94612.

On August 14, 2017 I served a copy of the foregoing documents described as follows:

**PETITIONERS' MOTION FOR JUDICIAL NOTICE; SUPPORTING
DECLARATION OF COUNSEL**

on the following interested party(ies) in this action:

Court of Appeals for the Ninth Circuit
95 7th Street
San Francisco, CA 94103

Clerk
USDC, N.D. of California
450 Golden Gate Avenue
San Francisco, CA 94102

Jessica Riggin
jriggin@rhdtlaw.com
RUKIN HYLAND LLP
100 Pine Street, Suite 2150
San Francisco, CA 94111

James C. Sturdevant
jsturdevant@sturdevantlaw.com
THE STURDEVANT LAW FIRM
4040 Civic Center Dr., Ste. 200
San Rafael, CA 94903

Arthur Levy
arthur@yesquire.com
LAW OFFICE OF ARTHUR D. LEVY
1814 Franklin St., Ste. 1040
Oakland, CA 94612


Damon M. Connolly
damon@damonconnollylaw.com
LAW OFFICE OF DAMON M.
CONNOLLY
1000 4th Street, #600
San Rafael, CA 94901

Brad W. Selling
Donald Brown
MANATT, PHELPS & PHILLIPS, LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064

BY MAIL: by placing the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Oakland, California addressed as set forth above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 14, 2017 at Oakland, California.


Renée Byndloss

Introduced by Senator Vuich

February 19, 1985

An act to amend Sections 22053, 22053.1, 22054, 22409, 22450.1, 22455, 22470, 22482, 24053, 24053.1, 24054, 24409, 24450.1, 24470, 24482, and 26007.5 of, to amend and renumber Section 26054.1 of, and to repeal Sections 22054.1 and 24054.1 of, the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 447, as introduced, Vuich. Loans: amounts subject to regulation.

(1) Existing law provides that specified provisions of the Personal Property Brokers Law do not apply to, among others, any loan of a bona fide principal amount of \$5,000 or more, and that those provisions plus others do not apply to, among others, any commercial loan of a bona fide principal amount of \$5,000 or more, if the exemptions are not used to evade that law.

This bill would reduce the bona fide principal amount of these exempted loans from \$5,000 to \$2,500. Conforming changes would be made as well.

(2) Existing law requires personal property brokers and consumer finance lenders to file an annual report with specified information separately stated with respect to loans less than \$5,000 and loans of \$5,000 or more and any other business. Existing law also restricts what interest may be charged, contracted for, or received by a personal property broker or consumer finance lender with respect to a noncommercial loan of \$5,000 or more.

This bill would reduce the amount of the loans referred to in these annual report and interest provisions from \$5,000 to \$2,500.

(3) Existing law provides that, except with respect to loan

contracts payable in substantially equal and consecutive monthly installments of principal and charges combined, no charges on loans made under the Personal Property Brokers Law shall be paid, deducted, or received in advance, or compounded.

This bill would exempt from the prohibition against the advance payment, deduction, receipt, or compounding of charges on loans specified administrative fees.

(4) Existing law prohibits a personal property broker or consumer finance lender from entering into any contract for a loan of a specified amount, other than an open-end loan, that provides for a scheduled repayment of principal over more than a specified maximum term. A loan principal of less than \$1,500 has a maximum term of repayment of 24 months and 15 days; a loan of \$1,500 but less than \$2,500 has a maximum term of 36 months and 15 days; a loan of \$2,500 but less than \$4,000 has a maximum term of 48 months and 15 days; a loan of \$4,000 but less than \$6,000 has a maximum term of 60 months and 15 days; and a loan of \$6,000 but less than \$10,000 has a maximum term of 84 months and 15 days.

This bill would delete from these provisions regulating the term of loan repayment any reference to loans of \$2,500 but less than \$10,000 and the corresponding maximum terms of repayment.

(5) Existing law provides for the rebate by personal property brokers and consumer finance lenders of precomputed charges on specified loans of \$5,000 or more which have been prepaid in full or where the maturity of the loan has been accelerated, as specified.

This bill would reduce the amount of the loan to which such a rebate of precomputed charges is applicable from \$5,000 to \$2,500.

(6) Existing law provides that various provisions of the Consumer Finance Lenders Law, not including the one specifying maximum terms of repayment for loans, are not applicable to any loan of a bona fide principal amount of \$5,000, if the exemption is not used for the purpose of evading that law.

This bill would provide instead that various provisions of the Consumer Finance Lenders Law, including the one



which specifies maximum terms of repayment for loans, are not applicable to any loan of a bona fide principal amount of \$2,500 or more. Conforming changes would be made as well.

(7) Existing law which regulates commercial finance lenders who make commercial loans defines a commercial loan to include, among other loans, a loan of a principal amount of \$5,000 or more, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes.

This bill would revise the definition of commercial loan so as to refer to, instead, a loan of a principal amount of \$2,500 or more, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes. Conforming changes would be made as well.

(8) Existing law provides that a willful violation of the Personal Property Brokers Law, Consumer Finance Lenders Law, or the Commercial Finance Lenders Law is a misdemeanor.

This bill would impose a state-mandated local program by expanding the scope of existing crimes.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION. 1. Section 22053 of the Financial Code is
2 amended to read:

3 22053. The following sections do not apply to any loan
4 of a bona fide principal amount of ten thousand dollars
5 (\$10,000) or more, or to any commercial loan of a bona
6 fide principal amount of ~~five thousand dollars (\$5,000)~~
7 *two thousand five hundred dollars (\$2,500)* or more, or to
8 any commercial loan made to a person engaged in the
9 business of selling goods for the purpose of financing the

1 purchase of goods for resale, or to a duly licensed personal
2 property broker in connection with any such loan or
3 loans, if the provisions of this section are not used for the
4 purpose of evading this division: Sections 22404 and
5 22405, subdivisions (h), (l), (n), and (o) of Section 22452,
6 Sections 22454, 22456, 22457, 22458, 22458.1, 22458.2,
7 22458.3, 22458.4, 22458.5, 22461, 22467, 22468, 22469, 22470,
8 22472, 22473, 22474, and 22652, and the sections
9 enumerated in Section 22053.1.

10 SEC. 2. Section 22053.1 of the Financial Code is
11 amended to read:

12 22053.1. The following sections do not apply to any
13 loan of a bona fide principal amount of ~~five thousand~~
14 ~~dollars (\$5,000)~~ *two thousand five hundred dollars*
15 *(\$2,500)* or more, or to a duly licensed personal property
16 broker in connection with any such loan or loans, if the
17 provisions of this section are not used for the purpose of
18 evading this division: Sections 22004, 22005, 22450, 22451,
19 and 22451.1, subdivisions (b), (c), (d), (e), (f), (j), (k),
20 and (m) of Section 22452, Section 22453, subdivision (a)
21 of Section 22454, and Sections 22455, 22459, 22460, 22462,
22 22463, 22464, 22470, 22480, and 22651.

23 SEC. 3. Section 22054 of the Financial Code is
24 amended to read:

25 22054. In determining under Section 22053 or 22053.1
26 whether a loan is a loan of a bona fide principal amount
27 of ~~ten thousand dollars (\$10,000)~~ *the specified amount* or
28 more and whether the provisions of ~~that the applicable~~
29 section are used for the purpose of evading this division,
30 the following principles apply:

31 (a) If a borrower applies for a loan in a principal
32 amount of less than ~~ten thousand dollars (\$10,000)~~ *the*
33 *specified amount* and a loan to that borrower of a
34 principal amount of ~~ten thousand dollars (\$10,000)~~ *the*
35 *specified amount* or more is made by a licensed personal
36 property broker, no adequate economic reason for the
37 increase in the size of the loan exists, and by
38 prearrangement or understanding between the
39 borrower and the licensee a substantial payment is to be
40 made upon the loan with the effect of reducing the



1 principal amount of the loan to less than ~~ten thousand~~
2 ~~dollars (\$10,000)~~ *the specified amount* within a short time
3 after the making of the loan other than by reason of a
4 requirement that the loan be paid in substantially equal
5 periodical installments, then the loan shall not be
6 deemed to be a loan of the bona fide principal amount of
7 ~~ten thousand dollars (\$10,000)~~ *the specified amount* or
8 more and the provisions of ~~Section 22053~~ *the applicable*
9 *section* shall be deemed to be used for the purpose of
10 evading this division unless the loan complies with the
11 provisions of this division relating to loans of less than ~~ten~~
12 ~~thousand dollars (\$10,000)~~ *the specified amount*.

13 (b) ~~An individual~~ *A subsequent* advance of money of
14 less than ~~ten thousand dollars (\$10,000)~~ *the specified*
15 *amount* pursuant to a revolving or open end loan
16 agreement or similar agreement between a borrower
17 and a licensed personal property broker which gives the
18 borrower the right to draw upon all or any part of the line
19 of credit, or a loan agreement providing for the making
20 of advances to the borrower from time to time up to an
21 aggregate maximum amount which gives the borrower
22 the right to draw all or any part of the total amount, shall
23 be deemed to be a loan of a principal amount of ~~ten~~
24 ~~thousand dollars (\$10,000)~~ *the specified amount* or more
25 if the line of credit or the aggregate maximum amount,
26 is ~~ten thousand dollars (\$10,000)~~ *the specified amount* or
27 more and the initial advance was ~~ten thousand dollars~~
28 ~~(\$10,000)~~ *the specified amount* or more even though the
29 actual unpaid balance after the advance or at any other
30 time is less than ~~ten thousand dollars (\$10,000)~~ *the*
31 *specified amount*.

32 (c) If a loan made by a licensed personal property
33 broker is in a principal amount of ~~ten thousand dollars~~
34 ~~(\$10,000)~~ *the specified amount* or more, the fact that the
35 transaction is in the form of a sale of accounts, chattel
36 paper, contract rights, goods, or instruments or a lease of
37 goods, or in the form of an advance on the purchase price
38 of any of the foregoing, shall not be deemed to affect the
39 loan or the bona fides of the amount thereof or to indicate
40 that the provisions of ~~Section 22053~~ *the applicable section*

1 are used for the purpose of evading this division.

2 (d) For the purposes of this section, "the specified
3 amount" means ten thousand dollars (\$10,000) with
4 respect to noncommercial loans and two thousand five
5 hundred dollars (\$2,500) with respect to commercial
6 loans when Section 22053 is the applicable section, and
7 two thousand five hundred dollars (\$2,500) when Section
8 22053.1 is the applicable section.

9 SEC. 4. Section 22054.1 of the Financial Code is
10 repealed.

11 ~~22054.1.~~ In determining under Section ~~22053~~ or
12 ~~22053.1~~ whether a loan is a loan of a bona fide principal
13 amount of five thousand dollars (~~\$5,000~~) or more and
14 whether the provisions of either section are used for the
15 purpose of evading this division, the following principles
16 apply:

17 (a) If a borrower applies for a loan in a principal
18 amount of less than five thousand dollars (~~\$5,000~~), and a
19 loan to that borrower of a principal amount of five
20 thousand dollars (~~\$5,000~~) or more is made by a licensed
21 personal property broker, no adequate economic reason
22 for the increase in the size of the loan exists, and by
23 prearrangement or understanding between the
24 borrower and the licensee a substantial payment is to be
25 made upon the loan with the effect of reducing the
26 principal amount of the loan to less than five thousand
27 dollars (~~\$5,000~~) within a short time after the making of
28 the loan other than by reason of the requirement that the
29 loan be paid in substantially equal periodic installments,
30 then the loan shall not be deemed to be a commercial
31 loan or a noncommercial loan of a bona fide principal
32 amount of five thousand dollars (~~\$5,000~~) or more and the
33 provisions of Section ~~22053~~ or ~~22053.1~~, respectively, shall
34 be deemed to be used for the purpose of evading this
35 division unless the loan complies with the provisions of
36 this division relating to commercial or noncommercial
37 loans of less than five thousand dollars (~~\$5,000~~).

38 (b) A subsequent advance of money of less than five
39 thousand dollars (~~\$5,000~~) pursuant to a revolving or open
40 end loan agreement or similar agreement between a

1 borrower and a licensee which gives the borrower the
2 right to draw upon all or any part of the line of credit, or
3 a loan agreement providing for the making of advances
4 to the borrower from time to time up to an aggregate
5 maximum amount which gives the borrower the right to
6 draw all or any part of the total amount, shall be deemed
7 to be a commercial or noncommercial loan of a bona fide
8 principal amount of five thousand dollars ~~(\$5,000)~~ or
9 more if the line of credit or the aggregate maximum
10 amount, is five thousand dollars ~~(\$5,000)~~ or more and the
11 initial advance was five thousand dollars ~~(\$5,000)~~ or more
12 even though the actual unpaid balance after the advance
13 or at any other time is less than five thousand dollars
14 ~~(\$5,000)~~.

15 (e) If a loan made by a licensee is in a principal amount
16 of five thousand dollars ~~(\$5,000)~~ or more, the fact that the
17 transaction is in the form of a sale of accounts, chattel
18 paper, contract rights, goods or instruments or a lease of
19 goods or in the form of an advance on the purchase price
20 of any of the foregoing shall not be deemed to affect the
21 loan or the bona fides of the amount thereof or to
22 indicate that the provisions of Section 22053 or 22053-1 are
23 used for the purpose of evading this division.

24 SEC. 5. Section 22409 of the Financial Code is
25 amended to read:

26 22409. The commissioner shall require that
27 information pertaining to loans be stated separately in
28 the annual report as follows:

29 (a) For loans of a principal amount of less than five
30 thousand dollars ~~(\$5,000)~~ two thousand five hundred
31 dollars (\$2,500).

32 (b) For loans of five thousand dollars ~~(\$5,000)~~ two
33 thousand five hundred dollars (\$2,500) or more and any
34 other business.

35 (c) The commissioner may permit information
36 pertaining to expenses in the annual report to be
37 reported in totals by categories without separation as to
38 types of loans, and may make such other rules from time
39 to time as may be necessary to obtain adequate
40 information pertaining to the licensee.

1 The report shall be made under oath and in the form
2 prescribed by the commissioner.

3 SEC. 6. Section 22450.1 of the Financial Code is
4 amended to read:

5 22450.1. (a) No licensee shall directly or indirectly
6 charge, contract for, or receive any interest or charge of
7 any nature with respect to a noncommercial loan of ~~five~~
8 ~~thousand dollars (\$5,000)~~ *two thousand five hundred*
9 *dollars (\$2,500)* or more unless the loan is made.

10 (b) Notwithstanding subdivision (a), whenever a
11 noncommercial loan of ~~five thousand dollars (\$5,000)~~ *two*
12 *thousand five hundred dollars (\$2,500)* or more is not
13 consummated because of the borrower's failure to
14 disclose outstanding liens or other information essential
15 to making the loan or solely because of the borrower's
16 failure to complete the loan in accordance with the loan
17 application, a licensee may charge, contract for, and
18 receive an amount equal to the actual expenses incurred
19 by the licensee in connection with the preparation for the
20 loan.

21 (c) The provisions of this section shall not apply to a
22 commercial loan as defined in Section 22011.

23 SEC. 7. Section 22455 of the Financial Code is
24 amended to read:

25 22455. Except as provided in *Section 22451.3 and in*
26 *Article 3 (commencing with Section 22480)* no charges on
27 loans made pursuant to this division shall be paid,
28 deducted, or received in advance, or compounded. The
29 licensee shall deliver to or at the direction of the
30 borrower at the time of making the loan an amount equal
31 to the face value of the loan and the note evidencing the
32 loan.

33 SEC. 8. Section 22470 of the Financial Code is
34 amended to read:

35 22470. No licensee shall enter into any contract for a
36 loan that provides for a scheduled repayment of principal
37 over more than the maximum terms set forth below
38 opposite the respective size of loans.



	Maximum term
2 Principal amount of loan	
3 Less than \$1,500.....	24 months and 15 days
4 \$1,500 but less than \$2,500 ..	36 months and 15 days
5 \$2,500 but less than \$4,000 =	48 months and 15 days
6 \$4,000 but less than \$6,000 =	60 months and 15 days
7 \$6,000 but less than \$10,000	84 months and 15 days

8
 9 This section shall not apply to open end loans.
 10 SEC. 9. Section 22482 of the Financial Code is
 11 amended to read:

12 22482. When charges on a noncommercial loan of an
 13 original bona fide principal amount of ~~five thousand~~
 14 ~~dollars~~ ~~(~~\$5,000~~)~~ *two thousand five hundred dollars*
 15 *(\$2,500)* or more have been precomputed in a manner
 16 similar to that provided in Section 22480, and the loan is
 17 prepaid in full by cash, a new loan, refinancing or
 18 otherwise, or the maturity of the loan contract is
 19 accelerated for any reason, the borrower shall receive a
 20 rebate or credit of that portion of the precomputed
 21 charge which is the difference between the total
 22 precomputed charge and the charges at the contract rate
 23 computed in accordance with the provisions of Section
 24 22454 or 22454.1, or on the basis of 12 equal months of 30
 25 days each, on the assumption that all payments were
 26 received by the licensee on their respective due dates.
 27 This section does not apply to charges paid by the
 28 borrower to the lender or others, such as charges
 29 computed as a percentage of the loan, which are fully
 30 earned upon making the loan, or to charges agreed to be
 31 paid by the borrower upon prepayment of a loan secured
 32 by a lien upon real property. This section does not apply
 33 to a commercial loan as defined in Section 22011.

34 SEC. 10. Section 24053 of the Financial Code is
 35 amended to read:

36 24053. The following sections do not apply to any loan
 37 of a bona fide principal amount of ten thousand dollars
 38 (\$10,000) or more, or to a duly licensed consumer finance
 39 lender in connection with any such loan or loans, if the
 40 provisions of this section are not used for the purpose of

1 evading this division: Sections 24404 and 24405, paragraph
2 (1) of subdivision (h) of Section 24452, Sections 24454,
3 24458, 24458.1, 24458.2, ~~24470~~, and 24652, and the sections
4 enumerated in Section 24053.1.

5 SEC. 11. Section 24053.1 of the Financial Code is
6 amended to read:

7 24053.1. The following sections do not apply to any
8 loan of a bona fide principal amount of ~~five thousand~~
9 ~~dollars (\$5,000)~~ *two thousand five hundred dollars*
10 *(\$2,500)* or more, or to a duly licensed consumer finance
11 lender in connection with any such loan or loans, if the
12 provisions of this section are not used for the purpose of
13 evading this division: Sections 24004, 24005, 24450, 24451,
14 and 24451.1, subdivisions (b), (c), (d), (e), (f), (j), (k),
15 and (m) of Section 24452, Section 24453, subdivision (a)
16 of Section 24454, and Sections 24455, 24459, 24460, 24462,
17 24463, 24464, 24470, 24480, and 24651.

18 SEC. 12. Section 24054 of the Financial Code is
19 amended to read:

20 24054. In determining under Section 24053 or 24053.1
21 whether a loan is a loan of a bona fide principal amount
22 of ~~ten thousand dollars (\$10,000)~~ *the specified amount* or
23 more and whether the provisions of ~~that the applicable~~
24 section are used for the purpose of evading this division,
25 the following principles apply:

26 (a) If a borrower applies for a loan in a principal
27 amount of less than ~~ten thousand dollars (\$10,000)~~ *the*
28 *specified amount* and a loan to that borrower of a
29 principal amount of ~~ten thousand dollars (\$10,000)~~ *the*
30 *specified amount* or more is made by a licensed consumer
31 finance lender, no adequate economic reason for the
32 increase in the size of the loan exists, and by
33 prearrangement or understanding between the
34 borrower and the licensee a substantial payment is to be
35 made upon the loan with the effect of reducing the
36 principal amount of the loan to less than ~~ten thousand~~
37 ~~dollars (\$10,000)~~ *the specified amount* within a short time
38 after the making of the loan other than by reason of a
39 requirement that the loan be paid in substantially equal
40 periodical installments, then the loan shall not be



1 deemed to be a loan of the bona fide principal amount of
2 ~~ten thousand dollars (\$10,000)~~ *the specified amount* or
3 more and the provisions of ~~Section 24053~~ *the applicable*
4 *section* shall be deemed to be used for the purpose of
5 evading this division unless the loan complies with the
6 provisions of this division relating to loans of less than ~~ten~~
7 ~~thousand dollars (\$10,000)~~ *the specified amount*.

8 (b) A subsequent advance of money of less than ~~ten~~
9 ~~thousand dollars (\$10,000)~~ *the specified amount* pursuant
10 to a revolving or open end loan agreement or similar
11 agreement between a borrower and a licensed consumer
12 finance lender which gives the borrower the right to
13 draw upon all or any part of the line of credit, or a loan
14 agreement providing for the making of advances to the
15 borrower from time to time up to an aggregate maximum
16 amount which gives the borrower the right to draw upon
17 all or any part of the total amount, shall be deemed to be
18 a loan of a principal amount of ~~ten thousand dollars~~
19 ~~(\$10,000)~~ *the specified amount* or more if the line of
20 credit or the aggregate maximum amount is ~~ten thousand~~
21 ~~dollars (\$10,000)~~ *the specified amount* or more and the
22 initial advance was ~~ten thousand dollars (\$10,000)~~ *the*
23 *specified amount* or more even though the actual unpaid
24 balance after the advance or at any other time is less than
25 ~~ten thousand dollars (\$10,000)~~ *the specified amount*.

26 (c) If a loan made by a licensed consumer finance
27 lender is in a principal amount of ~~ten thousand dollars~~
28 ~~(\$10,000)~~ *the specified amount* or more, the fact that the
29 transaction is in the form of a sale of accounts, chattel
30 paper, contract rights, goods, or instruments, or a lease
31 of goods, or in the form of an advance on the purchase
32 price of any of the foregoing, shall not be deemed to
33 affect the loan or the bona fides of the amount thereof or
34 to indicate that the provisions of ~~Section 24053~~ *the*
35 *applicable section* are used for the purpose of evading
36 this division.

37 (d) For the purposes of this section, "the specified
38 amount" means ~~ten thousand dollars (\$10,000)~~ when
39 ~~Section 24053~~ *is the applicable section*, and ~~two thousand~~
40 ~~five hundred dollars (\$2,500)~~ when ~~Section 24053.1~~ *is the*

1 *applicable section.*

2 SEC. 13. Section 24054.1 of the Financial Code is
3 repealed.

4 ~~24054.1.~~ In determining under Section ~~24053.1~~
5 whether a loan is a loan of a bona fide principal amount
6 of five thousand dollars (~~\$5,000~~) or more and whether the
7 provisions of that section are used for the purpose of
8 evading this division, the following principles apply:

9 (a) If a borrower applies for a loan in a principal
10 amount of less than five thousand dollars (~~\$5,000~~) and a
11 loan to that borrower of a principal amount of five
12 thousand dollars (~~\$5,000~~) or more is made by a licensed
13 consumer finance lender, no adequate economic reason
14 for the increase in the size of the loan exists, and by
15 prearrangement or understanding between the
16 borrower and the licensee a substantial payment is to be
17 made upon the loan with the effect of reducing the
18 principal amount of the loan to less than five thousand
19 dollars (~~\$5,000~~) within a short time after the making of
20 the loan other than by reason of a requirement that the
21 loan be paid in substantially equal periodical installments;
22 then the loan shall not be deemed to be a loan of a bona
23 fide principal amount of five thousand dollars (~~\$5,000~~) or
24 more and the provisions of Section ~~24053.1~~ shall be
25 deemed to be used for the purpose of evading this
26 division unless the loan complies with the provisions of
27 this division relating to loans of less than five thousand
28 dollars (~~\$5,000~~).

29 (b) A subsequent advance of money of less than five
30 thousand dollars (~~\$5,000~~) pursuant to a revolving or open
31 end loan agreement or similar agreement between a
32 borrower and a licensed consumer finance lender which
33 gives the borrower the right to draw upon all or any part
34 of the line of credit, or a loan agreement providing for the
35 making of advances to the borrower from time to time up
36 to an aggregate maximum amount which gives the
37 borrower the right to draw upon all or any part of the
38 total amount, shall be deemed to be a loan of a principal
39 amount of five thousand dollars (~~\$5,000~~) or more if the
40 line of credit or the aggregate maximum amount is five



1 thousand dollars ~~(\$5,000)~~ or more and the initial advance
2 was five thousand dollars ~~(\$5,000)~~ or more even though
3 the actual unpaid balance after the advance or at any
4 other time is less than five thousand dollars ~~(\$5,000)~~.

5 (e) If a loan made by a licensed consumer finance
6 lender is in a principal amount of five thousand dollars
7 ~~(\$5,000)~~ or more, the fact that the transaction is in the
8 form of a sale of accounts, chattel paper, contract rights,
9 goods or instruments or a lease of goods or in the form of
10 an advance on the purchase price of any of the foregoing
11 shall not be deemed to affect the loan or the bona fides
12 of the amount thereof or to indicate that the provisions
13 of Section 24053.1 are used for the purpose of evading this
14 division.

15 SEC. 14. Section 24409 of the Financial Code is
16 amended to read:

17 24409. The commissioner shall require that
18 information pertaining to loans be stated separately in
19 the annual reports as follows:

20 (a) For loans of a principal amount of less than five
21 thousand dollars ~~(\$5,000)~~ two thousand five hundred
22 dollars ~~(\$2,500)~~.

23 (b) For loans of five thousand dollars ~~(\$5,000)~~ two
24 thousand five hundred dollars ~~(\$2,500)~~ or more and any
25 other business.

26 (c) The commissioner may permit information
27 pertaining to expenses in the annual report to be
28 reported in totals by categories without separation as to
29 types of loans, and may make such other rules from time
30 to time as may be necessary to obtain adequate
31 information pertaining to the licensee.

32 The report shall be made under oath and in the form
33 prescribed by the commissioner.

34 SEC. 15. Section 24450.1 of the Financial Code is
35 amended to read:

36 24450.1. (a) No licensee shall directly or indirectly
37 charge, contract for, or receive any interest or charge of
38 any nature with respect to a loan of five thousand dollars
39 ~~(\$5,000)~~ two thousand five hundred dollars ~~(\$2,500)~~ or
40 more unless the loan is made.

1 (b) Notwithstanding subdivision (a), when a loan of
 2 ~~five thousand dollars (\$5,000)~~ *two thousand five hundred*
 3 *dollars (\$2,500)* or more is not consummated because of
 4 the borrower's failure to disclose outstanding liens or
 5 other information essential to making the loan or solely
 6 because of the borrower's failure to complete the loan in
 7 accordance with the loan application, a licensee may
 8 charge, contract for, and receive an amount equal to the
 9 actual expenses incurred by the licensee in connection
 10 with the preparation for the loan.

11 SEC. 16. Section 24470 of the Financial Code is
 12 amended to read:

13 24470. No licensee shall enter into any contract for a
 14 loan that provides for a scheduled repayment of principal
 15 over more than the maximum terms set forth below
 16 opposite the respective size of loans.

17	18 Principal amount of loan	Maximum term
19	Less than \$1,500.....	24 months and 15 days
20	\$1,500 but less than \$2,500 ..	36 months and 15 days
21	\$2,500 but less than \$4,000 ..	48 months and 15 days
22	\$4,000 but less than \$6,000 ..	60 months and 15 days
23	\$6,000 but less than \$10,000	84 months and 15 days

24
 25 This section shall not apply to open end loans.

26 SEC. 17. Section 24482 of the Financial Code is
 27 amended to read:

28 24482. When charges on a loan of an original bona fide
 29 principal amount of ~~five thousand dollars (\$5,000)~~ *two*
 30 *thousand five hundred dollars (\$2,500)* or more have
 31 been precomputed in a manner similar to that provided
 32 in Section 24480, and the loan is prepaid in full by cash,
 33 a new loan, refinancing or otherwise, or the maturity of
 34 the loan contract is accelerated for any reason, the
 35 borrower shall receive a rebate or credit of that portion
 36 of the precomputed charge which is the difference
 37 between the total precomputed charge and the charges
 38 at the contract rate computed in accordance with the
 39 provisions of Section 24454 or 24454.1, or on the basis of
 40 12 equal months of 30 days each, on the assumption that

1 all payments were received by the licensee on their
2 respective due dates. This section does not apply to
3 charges paid by the borrower to the lender or others,
4 such as charges computed as a percentage of the loan,
5 which are fully earned upon making the loan, or to
6 charges agreed to be paid by the borrower upon
7 prepayment of a loan secured by a lien upon real
8 property.

9 SEC. 18. Section 26007.5 of the Financial Code is
10 amended to read:

11 26007.5. "Commercial loan" means a loan of a
12 principal amount of ~~five thousand dollars (\$5,000)~~ two
13 *thousand five hundred dollars (\$2,500)* or more, or any
14 loan under an open end credit program, whether secured
15 by real or personal property, or unsecured, the proceeds
16 of which are intended by the borrower for use primarily
17 for other than personal, family, or household purposes.

18 For purposes of determining whether a loan is a
19 commercial loan, the lender may rely on any written
20 statement of intended purposes signed by the borrower.
21 The statement may be a separate statement signed by the
22 borrower or may be contained in a loan application or
23 other document signed by the borrower. The lender shall
24 not be required to ascertain that the proceeds of the loan
25 are used in accordance with the statement of intended
26 purposes.

27 SEC. 19. Section 26054.1 of the Financial Code is
28 amended and renumbered to read:

29 ~~26054.1.~~

30 26054. In determining whether a loan is a loan of a bona
31 fide principal amount of ~~five thousand dollars (\$5,000)~~
32 *the specified amount* or more, the following principles
33 shall apply:

34 (a) If a borrower applies for a loan in a principal
35 amount of less than ~~five thousand dollars (\$5,000)~~ *the*
36 *specified amount* and a loan to that borrower of a
37 principal amount of ~~five thousand dollars (\$5,000)~~ *the*
38 *specified amount* or more is made by a licensed
39 commercial finance lender, no adequate economic
40 reason for the increase in the size of the loan exists, and

1 by prearrangement or understanding between the
2 borrower and the licensee a substantial payment is to be
3 made upon the loan with the effect of reducing the
4 principal amount of the loan to less than ~~five thousand~~
5 ~~dollars (\$5,000)~~ *the specified amount* within a short time
6 after the making of the loan other than by reason of a
7 requirement that the loan be paid in substantially equal
8 periodical installments, then the loan shall not be
9 deemed to be a loan of the bona fide principal amount of
10 ~~five thousand dollars (\$5,000)~~ *the specified amount* or
11 more.

12 (b) A subsequent advance of money of less than ~~five~~
13 ~~thousand dollars (\$5,000)~~ *the specified amount* pursuant
14 to a revolving or open end loan agreement or similar
15 agreement between a borrower and a licensed
16 commercial finance lender which gives the borrower the
17 right to draw upon all or any part of the line of credit, or
18 a loan agreement providing for the making of advances
19 to the borrower from time to time up to an aggregate
20 maximum amount which gives the borrower the right to
21 draw all or any part of the total amount, shall be deemed
22 to be a loan of a principal amount of ~~five thousand dollars~~
23 ~~(\$5,000)~~ *the specified amount* or more if the line of credit
24 or the aggregate maximum amount is ~~five thousand~~
25 ~~dollars (\$5,000)~~ *the specified amount* or more and the
26 initial advance was ~~five thousand dollars (\$5,000)~~ *the*
27 *specified amount* or more even though the actual unpaid
28 balance after the advance or at any other time is less than
29 ~~five thousand dollars (\$5,000)~~ *the specified amount*.

30 (c) If a loan made by a licensed commercial finance
31 lender is in a principal amount of ~~five thousand dollars~~
32 ~~(\$5,000)~~ *the specified amount* or more, the fact that the
33 transaction is in the form of a sale of accounts, chattel
34 paper, contract rights, goods, or instruments, or a lease of
35 goods, or in the form of an advance on the purchase price
36 of any of the foregoing, shall not be deemed to affect the
37 bona fides of the amount thereof.

38 (d) *For the purposes of this section, "the specified*
39 *amount" means two thousand five hundred dollars*
40 *(\$2,500).*



1 SEC. 20. No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution because the only costs which may be
4 incurred by a local agency or school district will be
5 incurred because this act creates a new crime or
6 infraction, changes the definition of a crime or infraction,
7 changes the penalty for a crime or infraction, or
8 eliminates a crime or infraction.

AMENDED IN SENATE MAY 1, 1985
AMENDED IN SENATE APRIL 23, 1985

SENATE BILL

No. 447

Introduced by Senator Vuich

February 19, 1985

An act to amend Sections 22053.1, 22054, 22451, 22451.1, 24053.1, 24054, 24451, and 24451.1 of, to amend and renumber Section 26054.1 of, and to repeal Sections 22054.1 and 24054.1 of, the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 447, as amended, Vuich. Loans: amounts subject to regulation.

(1) Existing law provides that specified provisions of the Personal Property Brokers Law, including provisions prescribing maximum loan charges, do not apply to, among others, any loan of a bona fide principal amount of \$5,000 or more, if the exemption is not used to evade that law.

This bill would provide that the provisions prescribing maximum loan charges shall, instead, be inapplicable to any loan of a bona fide principal amount of \$2,500 or more. Conforming changes would be made as well.

(2) Existing law provides that various provisions of the Consumer Finance Lenders Law, including provisions prescribing maximum loan charges, are not applicable to any loan of a bona fide principal amount of \$5,000, if the exemption is not used for the purpose of evading that law.

This bill would provide that the provisions prescribing maximum loan charges shall, instead, be inapplicable to any loan of a bona fide principal amount of \$2,500 or more. Conforming changes would be made as well.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22053.1 of the Financial Code is
2 amended to read:

3 22053.1. The following sections do not apply to any
4 loan of a bona fide principal amount of five thousand
5 dollars (\$5,000) or more, or to a duly licensed personal
6 property broker in connection with any such loan or
7 loans, if the provisions of this section are not used for the
8 purpose of evading this division: Sections 22004, 22005,
9 and 22450, subdivisions (b), (c), (d), (e), (f), (j), (k), and
10 (m) of Section 22452, Section 22453, subdivision (a) of
11 Section 22454, and Sections 22455, 22459, 22460, 22462,
12 22463, 22464, 22480, and 22651.

13 SEC. 2. Section 22054 of the Financial Code is
14 amended to read:

15 22054. In determining under Section 22053, 22053.1,
16 22451, or 22451.1 whether a loan is a loan of a bona fide
17 principal amount of the specified amount or more and
18 whether the provisions of the applicable section are used
19 for the purpose of evading this division, the following
20 principles apply:

21 (a) If a borrower applies for a loan in a principal
22 amount of less than the specified amount and a loan to
23 that borrower of a principal amount of the specified
24 amount or more is made by a licensed personal property
25 broker, no adequate economic reason for the increase in
26 the size of the loan exists, and by prearrangement or
27 understanding between the borrower and the licensee a
28 substantial payment is to be made upon the loan with the
29 effect of reducing the principal amount of the loan to less
30 than the specified amount within a short time after the
31 making of the loan other than by reason of a requirement
32 that the loan be paid in substantially equal periodical
33 installments, then the loan shall not be deemed to be a
34 loan of the bona fide principal amount of the specified
35 amount or more and the provisions of the applicable
36 section shall be deemed to be used for the purpose of

1 evading this division unless the loan complies with the
2 provisions of this division relating to loans of less than the
3 specified amount.

4 (b) A subsequent advance of money of less than the
5 specified amount pursuant to a revolving or open end
6 loan agreement or similar agreement between a
7 borrower and a licensed personal property broker which
8 gives the borrower the right to draw upon all or any part
9 of the line of credit, or a loan agreement providing for the
10 making of advances to the borrower from time to time up
11 to an aggregate maximum amount which gives the
12 borrower the right to draw all or any part of the total
13 amount, shall be deemed to be a loan of a principal
14 amount of the specified amount or more if the line of
15 credit or the aggregate maximum amount, is the
16 specified amount or more and the initial advance was the
17 specified amount or more even though the actual unpaid
18 balance after the advance or at any other time is less than
19 the specified amount.

20 (c) If a loan made by a licensed personal property
21 broker is in a principal amount of the specified amount
22 or more, the fact that the transaction is in the form of a
23 sale of accounts, chattel paper, contract rights, goods, or
24 instruments or a lease of goods, or in the form of an
25 advance on the purchase price of any of the foregoing,
26 shall not be deemed to affect the loan or the bona fides
27 of the amount thereof or to indicate that the provisions
28 of the applicable section are used for the purpose of
29 evading this division.

30 (d) For the purposes of this section, "the specified
31 amount" means ten thousand dollars (\$10,000) with
32 respect to noncommercial loans and five thousand dollars
33 (\$5,000) with respect to commercial loans when Section
34 22053 is the applicable section, five thousand dollars
35 (\$5,000) when Section 22053.1 is the applicable section,
36 and two thousand five hundred dollars (\$2,500) when
37 Section 22451 or 22451.1 is the applicable section.

38 SEC. 3. Section 22054.1 of the Financial Code is
39 repealed.

40 SEC. 4. Section ~~22451~~ 22451 of the Financial Code is

1 amended to read:

2 22451. Every licensee who lends any sum of money
3 may contract for and receive charges at a rate not
4 exceeding the sum of the following:

5 (a) $2\frac{1}{2}$ percent per month on that part of the unpaid
6 principal balance of any loan up to, including, but not in
7 excess of two hundred twenty-five dollars (\$225).

8 (b) 2 percent per month on that portion of the unpaid
9 principal balance in excess of two hundred twenty-five
10 dollars (\$225) up to, including, but not in excess of nine
11 hundred dollars (\$900).

12 (c) $1\frac{1}{2}$ percent per month on that part of the unpaid
13 principal balance in excess of nine hundred dollars (\$900)
14 up to, including, but not in excess of one thousand six
15 hundred fifty dollars (\$1,650).

16 (d) 1 percent per month on any remainder of such
17 unpaid balance in excess of one thousand six hundred
18 fifty dollars (\$1,650).

19 This section does not apply to any loan of a bona fide
20 principal amount of two thousand five hundred dollars
21 (\$2,500) or more.

22 SEC. 5. Section 22451.1 of the Financial Code is
23 amended to read:

24 22451.1. As an alternative to the charges authorized
25 by Section 22451, a licensee may contract for and receive
26 charges at the greater of the following:

27 (a) A rate not exceeding 1.6 percent per month on the
28 unpaid principal balance.

29 (b) A rate not exceeding five-sixths of 1 percent per
30 month plus a percentage per month equal to one-twelfth
31 of the annual rate prevailing on the 25th day of the
32 second month of the quarter preceding the quarter in
33 which the loan is made as established by the Federal
34 Reserve Bank of San Francisco on advances to member
35 banks under Sections 13 and 13a of the Federal Reserve
36 Act as now in effect or hereafter from time to time
37 amended, or if there is no such single determinable rate
38 for advances, the closest counterpart of this rate as shall
39 be determined by the Superintendent of Banks of the
40 State of California. Charges shall be calculated on the



1 unpaid principal balance.

2 This section does not apply to any loan of a bona fide
3 principal amount of two thousand five hundred dollars
4 (\$2,500) or more.

5 SEC. 6. Section 24053.1 of the Financial Code is
6 amended to read:

7 24053.1. The following sections do not apply to any
8 loan of a bona fide principal amount of five thousand
9 dollars (\$5,000) or more, or to a duly licensed consumer
10 finance lender in connection with any such loan or loans,
11 if the provisions of this section are not used for the
12 purpose of evading this division: Sections 24004, 24005,
13 and 24450, subdivisions (b), (c), (d), (e), (f), (j), (k), and
14 (m) of Section 24452, Section 24453, subdivision (a) of
15 Section 24454, and Sections 24455, 24459, 24460, 24462,
16 24463, 24464, 24480, and 24651.

17 SEC. 7. Section 24054 of the Financial Code is
18 amended to read:

19 24054. In determining under Section 24053, 24053.1,
20 24451, or 24451.1 whether a loan is a loan of a bona fide
21 principal amount of the specified amount or more and
22 whether the provisions of the applicable section are used
23 for the purpose of evading this division, the following
24 principles apply:

25 (a) If a borrower applies for a loan in a principal
26 amount of less than the specified amount and a loan to
27 that borrower of a principal amount of the specified
28 amount or more is made by a licensed consumer finance
29 lender, no adequate economic reason for the increase in
30 the size of the loan exists, and by prearrangement or
31 understanding between the borrower and the licensee a
32 substantial payment is to be made upon the loan with the
33 effect of reducing the principal amount of the loan to less
34 than the specified amount within a short time after the
35 making of the loan other than by reason of a requirement
36 that the loan be paid in substantially equal periodical
37 installments, then the loan shall not be deemed to be a
38 loan of the bona fide principal amount of the specified
39 amount or more and the provisions of the applicable
40 section shall be deemed to be used for the purpose of

1 evading this division unless the loan complies with the
2 provisions of this division relating to loans of less than the
3 specified amount.

4 (b) A subsequent advance of money of less than the
5 specified amount pursuant to a revolving or open end
6 loan agreement or similar agreement between a
7 borrower and a licensed consumer finance lender which
8 gives the borrower the right to draw upon all or any part
9 of the line of credit, or a loan agreement providing for the
10 making of advances to the borrower from time to time up
11 to an aggregate maximum amount which gives the
12 borrower the right to draw upon all or any part of the
13 total amount, shall be deemed to be a loan of a principal
14 amount of the specified amount or more if the line of
15 credit or the aggregate maximum amount is the specified
16 amount or more and the initial advance was the specified
17 amount or more even though the actual unpaid balance
18 after the advance or at any other time is less than the
19 specified amount.

20 (c) If a loan made by a licensed consumer finance
21 lender is in a principal amount of the specified amount or
22 more, the fact that the transaction is in the form of a sale
23 of accounts, chattel paper, contract rights, goods, or
24 instruments, or a lease of goods, or in the form of an
25 advance on the purchase price of any of the foregoing,
26 shall not be deemed to affect the loan or the bona fides
27 of the amount thereof or to indicate that the provisions
28 of the applicable section are used for the purpose of
29 evading this division.

30 (d) For the purposes of this section, "the specified
31 amount" means ten thousand dollars (\$10,000) when
32 Section 24053 is the applicable section, five thousand
33 dollars (\$5,000) when Section 24053.1 is the applicable
34 section, and two thousand five hundred dollars (\$2,500)
35 when Section 24451 or 24451.1 is the applicable section.
36 SEC. 8. Section 24054.1 of the Financial Code is
37 repealed.

38 SEC. 9. Section 24451 of the Financial Code is
39 amended to read:

40 24451. Every licensee who lends any sum of money



1 may contract for and receive charges at a rate not
2 exceeding the sum of the following:

3 (a) Two and one-half percent per month on that part
4 of the unpaid principal balance of any loan up to,
5 including, but not in excess of two hundred twenty-five
6 dollars (\$225).

7 (b) Two percent per month on that portion of the
8 unpaid principal balance in excess of two hundred
9 twenty-five dollars (\$225) up to, including, but not in
10 excess of nine hundred dollars (\$900).

11 (c) One and one-half percent per month on that part
12 of the unpaid principal balance in excess of nine hundred
13 dollars (\$900) up to, including, but not in excess of one
14 thousand six hundred fifty dollars (\$1,650).

15 (d) One percent per month on any remainder of such
16 unpaid balance in excess of one thousand six hundred
17 fifty dollars (\$1,650).

18 This section does not apply to any loan of a bona fide
19 principal amount of two thousand five hundred dollars
20 (\$2,500) or more.

21 SEC. 10. Section 24451.1 of the Financial Code is
22 amended to read:

23 24451.1. As an alternative to the charges authorized
24 by Section 24451, a licensee may contract for and receive
25 charges at the greater of the following:

26 (a) A rate not exceeding 1.6 percent per month on the
27 unpaid principal balance.

28 (b) A rate not exceeding five-sixths of 1 percent per
29 month plus a percentage per month equal to one-twelfth
30 of the annual rate prevailing on the 25th day of the
31 second month of the quarter preceding the quarter in
32 which the loan is made as established by the Federal
33 Reserve Bank of San Francisco on advances to member
34 banks under Sections 13 and 13a of the Federal Reserve
35 Act as now in effect or hereafter from time to time
36 amended, or if there is no such single determinable rate
37 for advances, the closest counterpart of this rate as shall
38 be designated by the Superintendent of Banks of the
39 State of California. Charges shall be calculated on the
40 unpaid principal balance.

1 This section does not apply to any loan of a bona fide
2 principal amount of two thousand five hundred dollars
3 (\$2,500) or more.

4 SEC. 11. Section 26054.1 of the Financial Code is
5 amended and renumbered to read:

6 26054. In determining whether a loan is a loan of a
7 bona fide principal amount of the specified amount or
8 more, the following principles shall apply:

9 (a) If a borrower applies for a loan in a principal
10 amount of less than the specified amount and a loan to
11 that borrower of a principal amount of the specified
12 amount or more is made by a licensed commercial
13 finance lender, no adequate economic reason for the
14 increase in the size of the loan exists, and by
15 prearrangement or understanding between the
16 borrower and the licensee a substantial payment is to be
17 made upon the loan with the effect of reducing the
18 principal amount of the loan to less than the specified
19 amount within a short time after the making of the loan
20 other than by reason of a requirement that the loan be
21 paid in substantially equal periodical installments, then
22 the loan shall not be deemed to be a loan of the bona fide
23 principal amount of the specified amount or more.

24 (b) A subsequent advance of money of less than the
25 specified amount pursuant to a revolving or open end
26 loan agreement or similar agreement between a
27 borrower and a licensed commercial finance lender
28 which gives the borrower the right to draw upon all or
29 any part of the line of credit, or a loan agreement
30 providing for the making of advances to the borrower
31 from time to time up to an aggregate maximum amount
32 which gives the borrower the right to draw all or any part
33 of the total amount, shall be deemed to be a loan of a
34 principal amount of the specified amount or more if the
35 line of credit or the aggregate maximum amount is the
36 specified amount or more and the initial advance was the
37 specified amount or more even though the actual unpaid
38 balance after the advance or at any other time is less than
39 the specified amount.

40 (c) If a loan made by a licensed commercial finance



1 lender is in a principal amount of the specified amount or
2 more, the fact that the transaction is in the form of a sale
3 of accounts, chattel paper, contract rights, goods, or
4 instruments, or a lease of goods, or in the form of an
5 advance on the purchase price of any of the foregoing,
6 shall not be deemed to affect the bona fides of the amount
7 thereof.
8 (d) For the purposes of this section, "the specified
9 amount" means five thousand dollars (\$5,000).



CALIFORNIA LEGISLATURE

AT SACRAMENTO

1985-86 REGULAR SESSION

SENATE FINAL HISTORY

SHOWING ACTION TAKEN IN THIS SESSION ON ALL SENATE BILLS
CONSTITUTIONAL AMENDMENTS, CONCURRENT, JOINT RESOLUTIONS
AND SENATE RESOLUTIONS

CONVENED DECEMBER 3, 1984

ADJOURNED SINE DIE NOVEMBER 30, 1986

DAYS IN SESSION..... 254

CALENDAR DAYS..... 718

LT. GOVERNOR
President of the Senate

SENATOR DAVID ROBERTI
President pro Tempore

Compiled Under the Direction of
DARRYL R. WHITE
Secretary of the Senate

By
DAVID H. KNEALE, ESQ.
History Clerk

LIS - 2

LEGISLATIVE INTENT SERVICE (800) 666-1917

LEGISLATIVE INTENT SERVICE



S.B. No. 447—Vuich.

An act to amend Sections 22053.1, 22054, 22451, 22451, 24053.1, 24054, 24451, and 24451.1 of, to amend and renumber Section 28054.1 of, to add Sections 22450.5 and 24450.5 to, and to repeal Sections 22054.1 and 24054.1 of, the Financial Code, relating to loans.

1985

- Feb. 19—Introduced. Read first time. To Com. on RLS. for assignment. To print.
- Feb. 20—From print. May be acted upon on or after March 22.
- Feb. 28—To Com. on B. & C.
- April 3—Set for hearing April 10.
- April 9—Set, first hearing. Hearing canceled at the request of author.
- April 15—Set for hearing April 24.
- April 23—From committee with author's amendments. Read second time. Amended. Re-referred to committee.
- April 25—From committee; Do pass, but first be re-referred to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 9. Noes 0. Page 1026.) Re-referred to Com. on APPR.
- April 30—From committee: Be placed on second reading file pursuant to Senate Rule 28.8 and be amended.
- May 1—Read second time. Amended. To third reading.
- May 16—Read third time. Passed. (Ayes 37. Noes 0. Page 1402.) To Assembly.
- May 16—In Assembly. Read first time. Held at Desk.
- May 21—To Com. on FIN. & INS.
- July 9—From committee: Do pass as amended. To Consent Calendar.
- July 10—Read second time. Amended. To second reading.
- July 11—Read second time. To Consent Calendar.
- July 18—Read third time. Passed. (Ayes 75. Noes 0. Page 3562.) To Senate.
- July 18—In Senate. To unfinished business.
- Aug. 19—To Special Consent Calendar.
- Aug. 22—Senate concurs in Assembly amendments. (Ayes 38. Noes 0. Page 3060.) To enrollment.
- Aug. 28—Enrolled. To Governor at 11 a.m.
- Sept. 10—Becomes law without Governor's signature.
- Sept. 10—Chaptered by Secretary of State. Chapter 552, Statutes of 1985.

S.B. No. 448—Rosenthal.

An act to amend Section 3327.5 of the Business and Professions Code, relating to hearing aids.

1985

- Feb. 19—Introduced. Read first time. To Com. on RLS. for assignment. To print.
- Feb. 20—From print. May be acted upon on or after March 22.
- Feb. 28—To Com. on RLS.

1986

- Feb. 3—Returned to Secretary of Senate pursuant to Joint Rule 56.

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

June 28, 1985

Honorable Rose Ann Vuich
Senator, 15th District
State Capitol, Room 5066
Sacramento, California 95814

Dear Senator Vuich:

SB 447 - LOANS

After careful review and consideration, the Attorney General's office must oppose Senate Bill 447.

Current law provides a variety of protections for those who borrow from personal property brokers and consumer finance lenders including a ceiling on finance charges. Until January 1, 1984, the ceiling on finance charges applied to loans of less than \$10,000, but in that year the threshold was reduced to \$5,000. SB 447 would now lower that level to \$2,500.

There is no need or justification for eliminating the finance charge ceiling on loans of less than \$5,000. Consumers who borrow amounts of less than \$5,000 frequently must borrow to meet emergency situations, and these borrowers are least able to negotiate favorable finance charges. Moreover, these borrowers are precisely the persons who need protection against the exorbitant rates that could be charged if SB 447 is enacted.

Proponents of SB 447 suggest that eliminating the ceiling on finance charges will result in a reduction of finance charges in general. In other words, they argue that the maximum rate must be eliminated to enable them to charge less than that maximum! Such reasoning is patently faulty. Certainly lenders may charge less than the maximum under current law. More importantly, however, is the potential for abuse by some lenders notwithstanding an average drop in finance charges throughout the industry. Guarding against such potential abuse is a key purpose of statutes limiting finance charges.

LEGISLATIVE INTENT SERVICE (800) 666-1917



Honorable Alister McAlister
June 28, 1985
Page two

charges during certain time periods throughout the industry. Guarding against such potential abuse is a key purpose of statutes limiting finance charges.

We urge you to oppose the measure.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Allen Sumner

ALLEN SUMNER *AS*
Senior Assistant Attorney General
(916) 324-5477

AS:jkr

AMENDED IN ASSEMBLY JULY 10, 1985

AMENDED IN SENATE MAY 1, 1985

AMENDED IN SENATE APRIL 23, 1985

SENATE BILL

No. 447

Introduced by Senator Vuich

February 19, 1985

An act to amend Sections 22053.1, 22054, 22451, 22451.1, 24053.1, 24054, 24451, and 24451.1 of, to amend and renumber Section 26054.1 of, to add Sections 22450.5 and 24450.5 to and to repeal Sections 22054.1 and 24054.1 of, the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 447, as amended, Vuich. Loans: amounts subject to regulation.

(1) Existing law provides that specified provisions of the Personal Property Brokers Law, including provisions prescribing maximum loan charges, do not apply to, among others, any loan of a bona fide principal amount of \$5,000 or more, if the exemption is not used to evade that law.

This bill would provide that the provisions prescribing maximum loan charges shall, instead, be inapplicable to any loan of a bona fide principal amount of \$2,500 or more. Conforming changes would be made as well.

(2) Existing law provides that various provisions of the Consumer Finance Lenders Law, including provisions prescribing maximum loan charges, are not applicable to any loan of a bona fide principal amount of \$5,000, if the exemption is not used for the purpose of evading that law.

This bill would provide that the provisions prescribing maximum loan charges shall, instead, be inapplicable to any loan of a bona fide principal amount of \$2,500 or more.

Conforming changes would be made as well.

(3) Existing law authorizes the courts to refuse enforcement of unconscionable contracts or contractual provisions.

This bill would make unconscionable loan contracts of personal property brokers and consumer finance lenders a violation of their respective licensure laws.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22053.1 of the Financial Code is
2 amended to read:
3 22053.1. The following sections do not apply to any
4 loan of a bona fide principal amount of five thousand
5 dollars (\$5,000) or more, or to a duly licensed personal
6 property broker in connection with any such loan or
7 loans, if the provisions of this section are not used for the
8 purpose of evading this division: Sections 22004, 22005,
9 and 22450, subdivisions (b), (c), (d), (e), (f), (j), (k), and
10 (m) of Section 22452, Section 22453, subdivision (a) of
11 Section 22454, and Sections 22455, 22459, 22460, 22462,
12 22463, 22464, 22480, and 22651.
13 SEC. 2. Section 22054 of the Financial Code is
14 amended to read:
15 22054. In determining under Section 22053, 22053.1,
16 22451, or 22451.1 whether a loan is a loan of a bona fide
17 principal amount of the specified amount or more and
18 whether the provisions of the applicable section are used
19 for the purpose of evading this division, the following
20 principles apply:
21 (a) If a borrower applies for a loan in a principal
22 amount of less than the specified amount and a loan to
23 that borrower of a principal amount of the specified
24 amount or more is made by a licensed personal property
25 broker, no adequate economic reason for the increase in
26 the size of the loan exists, and by prearrangement or
27 understanding between the borrower and the licensee a
28 substantial payment is to be made upon the loan with the



1 effect of reducing the principal amount of the loan to less
2 than the specified amount within a short time after the
3 making of the loan other than by reason of a requirement
4 that the loan be paid in substantially equal periodical
5 installments, then the loan shall not be deemed to be a
6 loan of the bona fide principal amount of the specified
7 amount or more and the provisions of the applicable
8 section shall be deemed to be used for the purpose of
9 evading this division unless the loan complies with the
10 provisions of this division relating to loans of less than the
11 specified amount.

12 (b) A subsequent advance of money of less than the
13 specified amount pursuant to a revolving or open end
14 loan agreement or similar agreement between a
15 borrower and a licensed personal property broker which
16 gives the borrower the right to draw upon all or any part
17 of the line of credit, or a loan agreement providing for the
18 making of advances to the borrower from time to time up
19 to an aggregate maximum amount which gives the
20 borrower the right to draw all or any part of the total
21 amount, shall be deemed to be a loan of a principal
22 amount of the specified amount or more if the line of
23 credit or the aggregate maximum amount, is the
24 specified amount or more and the initial advance was the
25 specified amount or more even though the actual unpaid
26 balance after the advance or at any other time is less than
27 the specified amount.

28 (c) If a loan made by a licensed personal property
29 broker is in a principal amount of the specified amount
30 or more, the fact that the transaction is in the form of a
31 sale of accounts, chattel paper, contract rights, goods, or
32 instruments or a lease of goods, or in the form of an
33 advance on the purchase price of any of the foregoing,
34 shall not be deemed to affect the loan or the bona fides
35 of the amount thereof or to indicate that the provisions
36 of the applicable section are used for the purpose of
37 evading this division.

38 (d) For the purposes of this section, "the specified
39 amount" means ten thousand dollars (\$10,000) with
40 respect to noncommercial loans and five thousand dollars

1 (\$5,000) with respect to commercial loans when Section
2 22053 is the applicable section, five thousand dollars
3 (\$5,000) when Section 22053.1 is the applicable section,
4 and two thousand five hundred dollars (\$2,500) when
5 Section 22451 or 22451.1 is the applicable section.

6 SEC. 3. Section 22054.1 of the Financial Code is
7 repealed.

8 SEC. 4. *Section 22450.5 is added to the Financial Code,*
9 *to read:*

10 22450.5. (a) *Section 1670.5 of the Civil Code applies*
11 *to the provisions of a loan contract which is subject to this*
12 *division.*

13 (b) *A loan found to be unconscionable pursuant to*
14 *Section 1670.5 of the Civil Code shall be deemed to be in*
15 *violation of this division and subject to the remedies*
16 *specified in this division.*

17 SEC. 5. Section 22451 of the Financial Code is
18 amended to read:

19 22451. Every licensee who lends any sum of money
20 may contract for and receive charges at a rate not
21 exceeding the sum of the following:

22 (a) 2½ percent per month on that part of the unpaid
23 principal balance of any loan up to, including, but not in
24 excess of two hundred twenty-five dollars (\$225).

25 (b) 2 percent per month on that portion of the unpaid
26 principal balance in excess of two hundred twenty-five
27 dollars (\$225) up to, including, but not in excess of nine
28 hundred dollars (\$900).

29 (c) 1½ percent per month on that part of the unpaid
30 principal balance in excess of nine hundred dollars (\$900)
31 up to, including, but not in excess of one thousand six
32 hundred fifty dollars (\$1,650).

33 (d) 1 percent per month on any remainder of such
34 unpaid balance in excess of one thousand six hundred
35 fifty dollars (\$1,650).

36 This section does not apply to any loan of a bona fide
37 principal amount of two thousand five hundred dollars
38 (\$2,500) or more.

39 ~~SEC. 5.~~

40 SEC. 6. Section 22451.1 of the Financial Code is



1 amended to read:

2 22451.1. As an alternative to the charges authorized
3 by Section 22451, a licensee may contract for and receive
4 charges at the greater of the following:

5 (a) A rate not exceeding 1.6 percent per month on the
6 unpaid principal balance.

7 (b) A rate not exceeding five-sixths of 1 percent per
8 month plus a percentage per month equal to one-twelfth
9 of the annual rate prevailing on the 25th day of the
10 second month of the quarter preceding the quarter in
11 which the loan is made as established by the Federal
12 Reserve Bank of San Francisco on advances to member
13 banks under Sections 13 and 13a of the Federal Reserve
14 Act as now in effect or hereafter from time to time
15 amended, or if there is no such single determinable rate
16 for advances, the closest counterpart of this rate as shall
17 be determined by the Superintendent of Banks of the
18 State of California. Charges shall be calculated on the
19 unpaid principal balance.

20 This section does not apply to any loan of a bona fide
21 principal amount of two thousand five hundred dollars
22 (\$2,500) or more.

23 **SEC. 6.**

24 **SEC. 7.** Section 24053.1 of the Financial Code is
25 amended to read:

26 24053.1. The following sections do not apply to any
27 loan of a bona fide principal amount of five thousand
28 dollars (\$5,000) or more, or to a duly licensed consumer
29 finance lender in connection with any such loan or loans,
30 if the provisions of this section are not used for the
31 purpose of evading this division: Sections 24004, 24005,
32 and 24450, subdivisions (b), (c), (d), (e), (f), (j), (k), and
33 (m) of Section 24452, Section 24453, subdivision (a) of
34 Section 24454, and Sections 24455, 24459, 24460, 24462,
35 24463, 24464, 24480, and 24651.

36 **SEC. 7.**

37 **SEC. 8.** Section 24054 of the Financial Code is
38 amended to read:

39 24054. In determining under Section 24053, 24053.1,
40 24451, or 24451.1 whether a loan is a loan of a bona fide

1 principal amount of the specified amount or more and
2 whether the provisions of the applicable section are used
3 for the purpose of evading this division, the following
4 principles apply:

5 (a) If a borrower applies for a loan in a principal
6 amount of less than the specified amount and a loan to
7 that borrower of a principal amount of the specified
8 amount or more is made by a licensed consumer finance
9 lender, no adequate economic reason for the increase in
10 the size of the loan exists, and by prearrangement or
11 understanding between the borrower and the licensee a
12 substantial payment is to be made upon the loan with the
13 effect of reducing the principal amount of the loan to less
14 than the specified amount within a short time after the
15 making of the loan other than by reason of a requirement
16 that the loan be paid in substantially equal periodical
17 installments, then the loan shall not be deemed to be a
18 loan of the bona fide principal amount of the specified
19 amount or more and the provisions of the applicable
20 section shall be deemed to be used for the purpose of
21 evading this division unless the loan complies with the
22 provisions of this division relating to loans of less than the
23 specified amount.

24 (b) A subsequent advance of money of less than the
25 specified amount pursuant to a revolving or open end
26 loan agreement or similar agreement between a
27 borrower and a licensed consumer finance lender which
28 gives the borrower the right to draw upon all or any part
29 of the line of credit, or a loan agreement providing for the
30 making of advances to the borrower from time to time up
31 to an aggregate maximum amount which gives the
32 borrower the right to draw upon all or any part of the
33 total amount, shall be deemed to be a loan of a principal
34 amount of the specified amount or more if the line of
35 credit or the aggregate maximum amount is the specified
36 amount or more and the initial advance was the specified
37 amount or more even though the actual unpaid balance
38 after the advance or at any other time is less than the
39 specified amount.

40 (c) If a loan made by a licensed consumer finance



1 lender is in a principal amount of the specified amount or
2 more, the fact that the transaction is in the form of a sale
3 of accounts, chattel paper, contract rights, goods, or
4 instruments, or a lease of goods, or in the form of an
5 advance on the purchase price of any of the foregoing,
6 shall not be deemed to affect the loan or the bona fides
7 of the amount thereof or to indicate that the provisions
8 of the applicable section are used for the purpose of
9 evading this division.

10 (d) For the purposes of this section, "the specified
11 amount" means ten thousand dollars (\$10,000) when
12 Section 24053 is the applicable section, five thousand
13 dollars (\$5,000) when Section 24053.1 is the applicable
14 section, and two thousand five hundred dollars (\$2,500)
15 when Section 24451 or 24451.1 is the applicable section.

16 ~~SEC. 8.~~

17 ~~SEC. 9.~~ Section 24054.1 of the Financial Code is
18 repealed.

19 ~~SEC. 9.~~

20 ~~SEC. 10.~~ Section 24450.5 is added to the Financial
21 Code, to read:

22 *24450.5. (a) Section 1670.5 of the Civil Code applies*
23 *to the provisions of a loan contract which is subject to this*
24 *division.*

25 *(b) A loan found to be unconscionable pursuant to*
26 *Section 1670.5 of the Civil Code shall be deemed to be in*
27 *violation of this division and subject to the remedies*
28 *specified in this division.*

29 ~~SEC. 11.~~ Section 24451 of the Financial Code is
30 amended to read:

31 24451. Every licensee who lends any sum of money
32 may contract for and receive charges at a rate not
33 exceeding the sum of the following:

34 (a) Two and one-half percent per month on that part
35 of the unpaid principal balance of any loan up to,
36 including, but not in excess of two hundred twenty-five
37 dollars (\$225).

38 (b) Two percent per month on that portion of the
39 unpaid principal balance in excess of two hundred
40 twenty-five dollars (\$225) up to, including, but not in

1 excess of nine hundred dollars (\$900).

2 (c) One and one-half percent per month on that part
3 of the unpaid principal balance in excess of nine hundred
4 dollars (\$900) up to, including, but not in excess of one
5 thousand six hundred fifty dollars (\$1,650).

6 (d) One percent per month on any remainder of such
7 unpaid balance in excess of one thousand six hundred
8 fifty dollars (\$1,650).

9 This section does not apply to any loan of a bona fide
10 principal amount of two thousand five hundred dollars
11 (\$2,500) or more.

12 ~~SEC. 10.~~

13 *SEC. 12.* Section 24451.1 of the Financial Code is
14 amended to read:

15 24451.1. As an alternative to the charges authorized
16 by Section 24451, a licensee may contract for and receive
17 charges at the greater of the following:

18 (a) A rate not exceeding 1.6 percent per month on the
19 unpaid principal balance.

20 (b) A rate not exceeding five-sixths of 1 percent per
21 month plus a percentage per month equal to one-twelfth
22 of the annual rate prevailing on the 25th day of the
23 second month of the quarter preceding the quarter in
24 which the loan is made as established by the Federal
25 Reserve Bank of San Francisco on advances to member
26 banks under Sections 13 and 13a of the Federal Reserve
27 Act as now in effect or hereafter from time to time
28 amended, or if there is no such single determinable rate
29 for advances, the closest counterpart of this rate as shall
30 be designated by the Superintendent of Banks of the
31 State of California. Charges shall be calculated on the
32 unpaid principal balance.

33 This section does not apply to any loan of a bona fide
34 principal amount of two thousand five hundred dollars
35 (\$2,500) or more.

36 ~~SEC. 11.~~

37 *SEC. 13.* Section 26054.1 of the Financial Code is
38 amended and renumbered to read:

39 26054. In determining whether a loan is a loan of a
40 bona fide principal amount of the specified amount or



1 more, the following principles shall apply:

2 (a) If a borrower applies for a loan in a principal
3 amount of less than the specified amount and a loan to
4 that borrower of a principal amount of the specified
5 amount or more is made by a licensed commercial
6 finance lender, no adequate economic reason for the
7 increase in the size of the loan exists, and by
8 prearrangement or understanding between the
9 borrower and the licensee a substantial payment is to be
10 made upon the loan with the effect of reducing the
11 principal amount of the loan to less than the specified
12 amount within a short time after the making of the loan
13 other than by reason of a requirement that the loan be
14 paid in substantially equal periodical installments, then
15 the loan shall not be deemed to be a loan of the bona fide
16 principal amount of the specified amount or more.

17 (b) A subsequent advance of money of less than the
18 specified amount pursuant to a revolving or open end
19 loan agreement or similar agreement between a
20 borrower and a licensed commercial finance lender
21 which gives the borrower the right to draw upon all or
22 any part of the line of credit, or a loan agreement
23 providing for the making of advances to the borrower
24 from time to time up to an aggregate maximum amount
25 which gives the borrower the right to draw all or any part
26 of the total amount, shall be deemed to be a loan of a
27 principal amount of the specified amount or more if the
28 line of credit or the aggregate maximum amount is the
29 specified amount or more and the initial advance was the
30 specified amount or more even though the actual unpaid
31 balance after the advance or at any other time is less than
32 the specified amount.

33 (c) If a loan made by a licensed commercial finance
34 lender is in a principal amount of the specified amount or
35 more, the fact that the transaction is in the form of a sale
36 of accounts, chattel paper, contract rights, goods, or
37 instruments, or a lease of goods, or in the form of an
38 advance on the purchase price of any of the foregoing,
39 shall not be deemed to affect the bona fides of the amount
40 thereof.

1 (d) For the purposes of this section, "the specified
2 amount" means five thousand dollars (\$5,000).



SACRAMENTO OFFICE
STATE CAPITOL
ROOM 5086
SACRAMENTO, CALIFORNIA
95814
(916) 445-4641
DISTRICT OFFICE
120 W. TULARE
DINUBA, CA 93818
(209) 591-5005
DISTRICT OFFICE
2002 N. GATEWAY
FRESNO, CA 93727
(209) 445-5541

California State Senate



ROSE ANN VUICH
STATE SENATOR
FIFTEENTH SENATORIAL DISTRICT
FRESNO AND TULARE COUNTIES

COMMITTEES
CHAIR, BANKING AND
COMMERCE
AGRICULTURE AND WATER
TRANSPORTATION
LOCAL GOVERNMENT
JOINT COMMITTEES:
VICE CHAIR, RULES
FAIRS AND ALLOCATIONS
THE ARTS
CHAIR, SOLID AND HAZARDOUS
WASTE
RURAL ISSUES
RURAL CAUCUS
FOREST LAND ISSUES

August 29, 1985

Honorable George Deukmejian
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Dear Governor Deukmejian:

"Duke"

Senate Bill No. 447, which I introduced, has passed both houses of the Legislature and now awaits your action.

In 1983 I authored SB 225 which lowered the ceiling on regulation of personal property broker and consumer finance lender rates from \$10,000 to \$5,000. SB 447 further lowers that ceiling to \$2,500.

As anticipated when SB 225 was enacted, rates above \$5,000 are now set competitively in the market place and are generally below the former statutory rate ceilings. SB 447 is expected to lead similarly to lower rates for loans in the \$2,500 to \$5,000 bracket.

Only rate regulation is affected by SB 447. Other regulatory provisions in the Personal Property Broker and Consumer Finance Lender Laws are not changed.

The unconscionability provision in the Civil Code is incorporated by reference in both laws to provide a remedy for excessive charges.

The Senate passed SB 447 by a 37-0 vote, and it was passed by the Assembly on the consent calendar. I urge your approval.

Sincerely,

ROSE ANN VUICH

(800) 666-1917

LEGISLATIVE INTENT SERVICE



Senate Bill No. 447

CHAPTER 552

An act to amend Sections 22053.1, 22054, 22451, 22451.1, 24053.1, 24054, 24451, and 24451.1 of, to amend and renumber Section 26054.1 of, to add Sections 22450.5 and 24450.5 to, and to repeal Sections 22054.1 and 24054.1 of, the Financial Code, relating to loans.

[Became law without Governor's signature. Filed with Secretary of State September 10, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

SB 447, Vuich. Loans: amounts subject to regulation.

(1) Existing law provides that specified provisions of the Personal Property Brokers Law, including provisions prescribing maximum loan charges, do not apply to, among others, any loan of a bona fide principal amount of \$5,000 or more, if the exemption is not used to evade that law.

This bill would provide that the provisions prescribing maximum loan charges shall, instead, be inapplicable to any loan of a bona fide principal amount of \$2,500 or more. Conforming changes would be made as well.

(2) Existing law provides that various provisions of the Consumer Finance Lenders Law, including provisions prescribing maximum loan charges, are not applicable to any loan of a bona fide principal amount of \$5,000, if the exemption is not used for the purpose of evading that law.

This bill would provide that the provisions prescribing maximum loan charges shall, instead, be inapplicable to any loan of a bona fide principal amount of \$2,500 or more. Conforming changes would be made as well.

(3) Existing law authorizes the courts to refuse enforcement of unconscionable contracts or contractual provisions.

This bill would make unconscionable loan contracts of personal property brokers and consumer finance lenders a violation of their respective licensure laws.

The people of the State of California do enact as follows:

SECTION 1. Section 22053.1 of the Financial Code is amended to read:

22053.1. The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars (\$5,000) or more, or to a duly licensed personal property broker in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22004, 22005, and 22450, subdivisions (b), (c), (d), (e), (f), (j), (k), and (m) of Section 22452,

Section 22453, subdivision (a) of Section 22454, and Sections 22455, 22459, 22460, 22462, 22463, 22464, 22480, and 22651.

SEC. 2. Section 22054 of the Financial Code is amended to read:

22054. In determining under Section 22053, 22053.1, 22451, or 22451.1 whether a loan is a loan of a bona fide principal amount of the specified amount or more and whether the provisions of the applicable section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal amount of the specified amount or more is made by a licensed personal property broker, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the provisions of the applicable section shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than the specified amount.

(b) A subsequent advance of money of less than the specified amount pursuant to a revolving or open end loan agreement or similar agreement between a borrower and a licensed personal property broker which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw all or any part of the total amount, shall be deemed to be a loan of a principal amount of the specified amount or more if the line of credit or the aggregate maximum amount, is the specified amount or more and the initial advance was the specified amount or more even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

(c) If a loan made by a licensed personal property broker is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of the applicable section are used for the purpose of evading this division.

(d) For the purposes of this section, "the specified amount" means ten thousand dollars (\$10,000) with respect to noncommercial loans and five thousand dollars (\$5,000) with respect to commercial



loans when Section 22053 is the applicable section, five thousand dollars (\$5,000) when Section 22053.1 is the applicable section, and two thousand five hundred dollars (\$2,500) when Section 22451 or 22451.1 is the applicable section.

SEC. 3. Section 22054.1 of the Financial Code is repealed.

SEC. 4. Section 22450.5 is added to the Financial Code, to read:

22450.5. (a) Section 1670.5 of the Civil Code applies to the provisions of a loan contract which is subject to this division.

(b) A loan found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of this division and subject to the remedies specified in this division.

SEC. 5. Section 22451 of the Financial Code is amended to read:

22451. Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) $2\frac{1}{2}$ percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars (\$225).

(b) 2 percent per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars (\$225) up to, including, but not in excess of nine hundred dollars (\$900).

(c) $1\frac{1}{2}$ percent per month on that part of the unpaid principal balance in excess of nine hundred dollars (\$900) up to, including, but not in excess of one thousand six hundred fifty dollars (\$1,650).

(d) 1 percent per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars (\$1,650).

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more.

SEC. 6. Section 22451.1 of the Financial Code is amended to read:

22451.1. As an alternative to the charges authorized by Section 22451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of this rate as shall be determined by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more.

SEC. 7. Section 24053.1 of the Financial Code is amended to read:

24053.1. The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars (\$5,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 24004, 24005, and 24450, subdivisions (b), (c), (d), (e), (f), (j), (k), and (m) of Section 24452, Section 24453, subdivision (a) of Section 24454, and Sections 24455, 24459, 24460, 24462, 24463, 24464, 24480, and 24651.

SEC. 8. Section 24054 of the Financial Code is amended to read:

24054. In determining under Section 24053, 24053.1, 24451, or 24451.1 whether a loan is a loan of a bona fide principal amount of the specified amount or more and whether the provisions of the applicable section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal amount of the specified amount or more is made by a licensed consumer finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the provisions of the applicable section shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than the specified amount.

(b) A subsequent advance of money of less than the specified amount pursuant to a revolving or open end loan agreement or similar agreement between a borrower and a licensed consumer finance lender which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw upon all or any part of the total amount, shall be deemed to be a loan of a principal amount of the specified amount or more if the line of credit or the aggregate maximum amount is the specified amount or more and the initial advance was the specified amount or more even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

(c) If a loan made by a licensed consumer finance lender is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments, or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be



deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of the applicable section are used for the purpose of evading this division.

(d) For the purposes of this section, "the specified amount" means ten thousand dollars (\$10,000) when Section 24053 is the applicable section, five thousand dollars (\$5,000) when Section 24053.1 is the applicable section, and two thousand five hundred dollars (\$2,500) when Section 24451 or 24451.1 is the applicable section.

SEC. 9. Section 24054.1 of the Financial Code is repealed.

SEC. 10. Section 24450.5 is added to the Financial Code, to read:

24450.5. (a) Section 1670.5 of the Civil Code applies to the provisions of a loan contract which is subject to this division.

(b) A loan found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of this division and subject to the remedies specified in this division.

SEC. 11. Section 24451 of the Financial Code is amended to read:

24451. Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) Two and one-half percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars (\$225).

(b) Two percent per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars (\$225) up to, including, but not in excess of nine hundred dollars (\$900).

(c) One and one-half percent per month on that part of the unpaid principal balance in excess of nine hundred dollars (\$900) up to, including, but not in excess of one thousand six hundred fifty dollars (\$1,650).

(d) One percent per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars (\$1,650).

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more.

SEC. 12. Section 24451.1 of the Financial Code is amended to read:

24451.1. As an alternative to the charges authorized by Section 24451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no

such single determinable rate for advances, the closest counterpart of this rate as shall be designated by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more.

SEC. 13. Section 26054.1 of the Financial Code is amended and renumbered to read:

26054. In determining whether a loan is a loan of a bona fide principal amount of the specified amount or more, the following principles shall apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal amount of the specified amount or more is made by a licensed commercial finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more.

(b) A subsequent advance of money of less than the specified amount pursuant to a revolving or open end loan agreement or similar agreement between a borrower and a licensed commercial finance lender which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw all or any part of the total amount, shall be deemed to be a loan of a principal amount of the specified amount or more if the line of credit or the aggregate maximum amount is the specified amount or more and the initial advance was the specified amount or more even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

(c) If a loan made by a licensed commercial finance lender is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments, or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the bona fides of the amount thereof.

(d) For the purposes of this section, "the specified amount" means five thousand dollars (\$5,000).

O



ENROLLED BILL REPORT

DEPARTMENT CORPORATIONS	AUTHOR Vuich	BILL NUMBER SB 447
SUBJECT Lowering from \$5,000 to \$2,500 the regulated loan amount under the consumer finance lenders laws		

SUMMARY

Would amend the Personal Property Brokers Law, Consumer Finance Lenders Law, and Commercial Finance Lenders Law to lower the regulated loan amount from \$5,000 to \$2,500; repeal the maximum term for regulated loans over \$2,500; and reduce and define "commercial loan" to be a loan to be made for commercial purpose over \$2,500.

SPONSOR

Senate Bill 447 is sponsored by the California Financial Services Association.

IMPACT ASSESSMENT

Essentially, Senate Bill 447 removes the interest rate ceiling on loans made by licensed lenders under the Personal Property Brokers Law, Consumer Finance Lenders Law, and Commercial Finance Lenders Law on loans over \$2,500. Presently, the interest rate ceiling applies to loans below \$5,000. The effect of lowering the interest rate ceiling is to eliminate rate regulation as a form of regulation of loans made under these laws. Both the Department of Corporations and the California Financial Services Association agree that the rate limitation should apply to loans under \$2,500 in order to address concerns arising from necessitous borrowers. The Department of Corporations will monitor the interest rates on loans above \$2,500 to determine whether these rates are "competitive" through the mechanism of the annual report required to be filed by licensed lenders. There will be no cost to the Department of Corporations.

ARGUMENTS PRO & CON

The major argument in favor of Senate Bill 447 is that rate regulation provides very little consumer protection and may even work against consumers since lenders tend to lend money at the maximum allowable rate irrespective of the credit worthiness of the borrower. Senate Bill 447 removes only the rate regulation provision of the laws regulating lenders while preserving the consumer protection provisions of all laws. The effect of this bill is that interest rates for consumer finance loans above \$2,500 will be set by the market place. Statistics furnished to the Department of Corporations by the California Financial Services Association indicate that, on the whole, interest rates are competitive for loans over \$5,000; especially for the larger consumer finance companies which make over 90% of the loans.

LEGISLATIVE INTENT SERVICE (800) 666-1917



RECOMMENDATION

SIGN

Date Franklin Tom, Commissioner <i>Franklin Tom</i>	Date 8/28/85	Agency <i>[Signature]</i>	Date 8/29/85 PE-2
---	-----------------	------------------------------	-------------------------

The only major argument against the bill is that deregulation has gone too far and an element of consumer protection will be eliminated by lowering the interest rate ceiling from \$5,000 to \$2,500. As set forth above, it is questionable whether rate regulation provides consumer protection at all. Moreover, the other consumer protection elements of the consumer finance lending laws remain intact as well as a new provision added by this bill which would provide that if a loan made under these laws is found to be unconscionable pursuant to Section 1670.5 of the Civil Code, it shall be deemed to be a violation of the consumer finance lender laws and thereby subject to the remedies of these laws.

RECOMMENDATION

Insofar as the Department of Corporations is concerned, a recommendation of SIGN is made because this bill will remove rate regulation from loans between \$2,500 and \$5,000 while preserving the consumer protection elements of the consumer finance lending laws and thereby allow a more competitive interest rate structure based on a borrower's credit worthiness.