

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**

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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.)

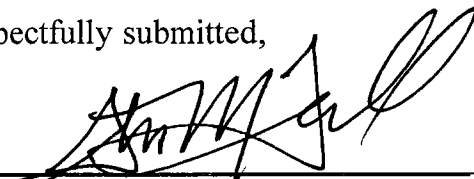
In *Martin v. Szeto* (2004) 32 Cal. 4th 445, 450, there were multiple letters explaining the intention underlying a bill. The Court held that because the “letters consistently explain that the amendment was offered to make the bill reciprocal, by providing that anyone defending against a frivolous action 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: 

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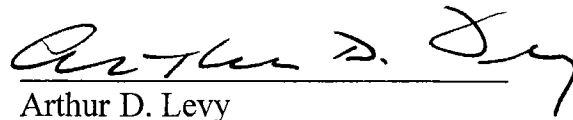
Attorneys for Plaintiffs/Petitioners

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:

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San Francisco, CA 94103

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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