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No. S241434

IN THE SUPREME COURT
FOR THE STATE OF CALIFORNIA

EDUARDO DE LA TORRE *et al.*,

Plaintiffs, Appellants, and Cross-Appellees,

vs.

CASHCALL, INC.,

Defendant, Appellee, and Cross-Appellant.

DEFENDANT'S MOTION FOR JUDICIAL NOTICE

On a Certified Question from the United States Court of Appeals for the
Ninth Circuit, Case No. 14-17571
[Cal. Rules of Court, rule 8.548]

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MOTION FOR JUDICIAL NOTICE

Pursuant to California Rules of Court, rule 8.252(a), and California Evidence Code section 451, subdivision (a); section 452, subdivisions (b), (c), (d), and (h); and section 459, CashCall, Inc. moves this Court for an order taking judicial notice of the attached materials:

Exhibit 1: Declaration of Maria A. Sanders of Legislative Intent Service authenticating compilation of legislative file of Senate Bill No. 447 (Reg. Sess. 1985-1986).

Exhibit 2: Sen. Bill No. 447 (1985-1986 Reg. Sess.), as introduced Feb. 19, 1985.

Exhibit 3: Sen. Com. on Banking and Commerce Analysis of Sen. Bill No. 447 (1985-1986 Reg. Sess.) as amended April 24, 1985.

Exhibit 4: Department of Corporations Enrolled Bill Report of Sen. Bill No. 447 (1995-1996 Reg. Sess.) August 29, 1985.

Exhibit 5: Hon. Rose Ann Vuich to Hon. George Deukmejian, Aug. 29, 1985.

Exhibit 6: Memorandum from Shirley R. Chilton, State and Consumer Services Agency to Governor's Office dated September 3, 1985.

Exhibit 7: Declaration of Maria A. Sanders of Legislative Intent Service authenticating compilation of legislative file for Assem. Bill No. 2885 (1993-1994 Reg. Sess.).

Exhibit 8: Assembly Daily Journal (1993-1994 Reg. Sess.) Aug. 29, 1994.

CashCall also moves this Court pursuant to Evidence Code section 451, subdivision (a); section 452, subdivisions (c), (h); and section 459, and California Rules of Court, rule 8.252(a), to take judicial notice of the Ruling on Demurrer in Los Angeles County Superior Court Case No.

BC367894, *Meeks et al. v. CashCall, Inc.*, dated May 6, 2008. This appears in the record at 9-SER-1942-1957, Exhibit B to the Declaration of Brad W. Seiling in Support of CashCall, Inc.'s Opposition to Plaintiffs' Motion for Class Certification. (See also 9-SER-1936 ¶ 2.¹)

CashCall further moves this Court pursuant to Evidence Code section 451, subdivision (a); section 452, subdivisions (c), (h); and section 459, and California Rules of Court, rule 8.252(a), to take judicial notice of the following reports issued by the California Department of Business Oversight (Department). These materials were Exhibits A through O to Defendant CashCall, Inc.'s Request for Judicial Notice in Support of Motion for Summary Judgment on Unconscionability Claim (3-SER-512-798.)

Exhibit A: The Department's 2004 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law. (3-SER-516-530.)

Exhibit B: The Department's 2005 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law. (3-SER-531-545.)

Exhibit C: The Department's 2006 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law. (3-SER-546-560.)

Exhibit D: The Department's 2007 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law. (3-SER-561-575.)

Exhibit E: The Department's 2008 Annual Report, Operation of

¹ "SER" refers to the Supplemental Excerpts of Record.

Finance Companies Licensed under the California Finance Lenders Law.
(3-SER-576-586, 3-SER-589-598.)

Exhibit F: The Department's 2009 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law.
(3-SER-599-622.)

Exhibit G: The Department's 2010 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law.
(3-SER-623-645.)

Exhibit H: The Department's 2011 Annual Report, Operation of Finance Companies Licensed under the California Finance Lenders Law.
(3-SER-646-669.)

Exhibit I: The Department's 2005 Annual Report, Operation of Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-670-673.)

Exhibit J: The Department's 2006 Annual Report, Operation of Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-674-678.)

Exhibit K: The Department's 2007 Annual Report, Operation of Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-679-699.)

Exhibit L: The Department's 2008 Annual Report, Operation of Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-700-728.)

Exhibit M: The Department's 2009 Annual Report, Operation of Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-729-751.)

Exhibit N: The Department's 2010 Annual Report, Operation of

Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-752-774.)

Exhibit O: The Department's 2011 Annual Report, Operation of Deferred Deposit Originators Licensed under the California Deferred Deposit Transaction Law. (3-SER-775-798.)

MEMORANDUM OF POINTS AND AUTHORITIES

CashCall requests that the Court take judicial notice of the attached materials and materials appearing in the record, as described in the Notice, pursuant to Evidence Code section 451, subdivision (a); section 452, subdivisions (b), (c), (d), (h); and section 459, and California Rules of Court, rule 8.252(a).

All of the materials of which judicial notice is requested are pertinent to arguments in CashCall's Answer Brief on the Merits regarding the interpretation of Financial Code sections 22302 and 22303.

Legislative History Materials:

Exhibits 1 through 6 are excerpts from the legislative file of Senate Bill No. 447, including an authenticating declaration. In the district court, CashCall requested judicial notice of certain excerpts of the Senate Bill 447 legislative history, including the declaration (Exhibit 1) and the letter (Exhibit 5). (3-SER-515 ¶ 16; 3-SER-587-588; 3-SER-799-805; 4-SER-924 ¶ 18; 5-SER-1253-1259.) The district court granted judicial notice of the legislative history excerpts. (See *De La Torre v. CashCall, Inc.* (N.D. Cal. 2014) 56 F.Supp.3d 1073, 1092.) Exhibits 2 through 4 and 6 were not previously presented to the district court.²

Exhibits 7 and 8 are excerpts from the legislative file of Assembly

² One page of Exhibit 4 was included as an exhibit to a declaration. (5-SER-1259.)

Bill No. 2885 (1993-1994 Reg. Sess.), including an authenticating declaration. These materials were not presented to the district court.

Judicial notice of these legislative history materials is appropriate. Evidence Code section 451, subdivision (a) requires a court to take judicial notice of “[t]he . . . public statutory law of this state . . .” Evidence Code section 452, subdivision (b) allows a court to take judicial notice of “[r]egulations and legislative enactments issued by or under the authority of . . . any public entity in the United States.” Evidence Code section 452, subdivision (c) allows a court to take judicial notice of “[o]fficial acts of the legislative . . . departments of . . . any state of the United States.” Evidence Code Section 452, subdivision (h) allows a court to take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

Legislative histories of California statutes, including compilations by Legislative Intent Service, are commonly the subjects of judicial notice by California courts. (See *People v. Sanchez* (2001) 24 Cal. 4th 983, 992, fn. 4; *Grubb & Ellis Co. v. Bello* (1993) 19 Cal.App.4th 231, 240-241; *Estate of Thomas* (2004) 124 Cal. App. 4th 711, 723, fn. 3.) More specifically, the Assembly Journal is a proper subject of judicial notice. (*Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 32.) Statements in letters written by the author of legislation can be relevant to ascertaining legislative intent. (*California Teachers Ass'n v. San Diego Comm. College Dist.* (1981) 28 Cal.3d 692, 710-711 (en banc).) Courts often consider legislative committee analyses as relevant to legislative intent. (See, e.g., *Apple Inc. v. Superior Court* (2013) 56 Cal.4th 128, 148.) And this Court has ““routinely found enrolled

bill reports, prepared by a responsible agency contemporaneous with passage and before signing, instructive on matters of legislative intent.” (In re Conservatorship of Whitley (2010) 50 Cal.4th 1206, 1218, fn. 3 [citations omitted].)

Court records: Exhibit B to the Declaration of Brad W. Seiling in Support of CashCall, Inc.’s Opposition to Plaintiffs’ Motion for Class Certification (9-SER-1942-1957; 9-SER-1936 ¶ 2) is a Ruling on Demurrer in Los Angeles County Superior Court Case No. BC367894, *Meeks et al. v. CashCall, Inc.*, dated May 6, 2008, in a similar case that presented similar issues. The district court granted judicial notice of the Ruling. (*De La Torre v. CashCall, Inc.*, *supra*, 56 F.Supp.3d at p. 1087.) Judicial notice is appropriate under Evidence Code section 452, subdivision (d) as a “[r]ecord[] of [] any court of this state” In addition, Evidence Code section 451, subdivision (a) requires a court to take judicial notice of “[t]he decisional . . . law of this state” Evidence Code section 452, subdivision (c) allows a court to take judicial notice of “[o]fficial acts of the . . . judicial departments of . . . any state of the United States.” Evidence Code Section 452, subdivision (h) allows a court to take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

Administrative Materials:

Exhibits A through O to Defendant CashCall, Inc.’s Request for Judicial Notice in Support of Motion for Summary Judgment on Unconscionability Claim (3-SER-512-798) are annual reports of the Department of Business Oversight. The district court granted CashCall’s request for judicial notice of the reports. (*De La Torre v. CashCall, Inc.*,

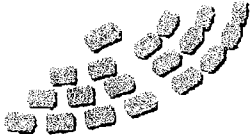
supra, 56 F.Supp.3d at p. 1092.) Judicial notice of these documents is appropriate pursuant to Evidence Code section 452, subdivision (c) (allowing judicial notice of “[o]fficial acts of the . . . executive . . . departments of the United States and of any state of the United States”). In addition, Evidence Code section 451, subdivision (a) requires a court to take judicial notice of “[t]he decisional . . . law of this state” Evidence Code Section 452, subdivision (h) allows a court to take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

CashCall respectfully requests that the Court grant this motion and take judicial notice of the attached materials.

Dated: October 12, 2017 MANATT, PHELPS & PHILLIPS, LLP

By: s/ Brad W. Seiling
BRAD W. SEILING
*Attorneys for Defendant, Appellee and
Cross-Appellant CASHCALL, INC.*

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LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

DECLARATION OF MARIA A. SANDERS

I, Maria A. Sanders, declare:

I am an attorney licensed to practice in California, State Bar No. 092900, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain documents relevant to the enactment of Senate Bill 447 of 1985. The documents listed below were obtained through Legislative Intent Service, Inc.'s online quick purchase service of previously-compiled legislative histories. Senate Bill 447 was approved by the Legislature and was enacted as Chapter 552 of the Statutes of 1985.

The following list identifies all documents purchased on January 1, 2012, through Legislative Intent Service, Inc.'s online quick purchase service of compiled legislative histories, on Senate Bill 447 of 1985. All documents listed in this Declaration are true and correct copies of the originals gathered by Legislative Intent Service, Inc.

SENATE BILL 447 OF 1985:

1. All versions of Senate Bill 447 (Vuich - 1985);
2. Procedural history of Senate Bill 447 from the 1985-86 *Senate Final History*;
3. Analysis of Senate Bill 447 prepared for the Senate Committee on Banking and Commerce;
4. Third Reading analysis of Senate Bill 447 prepared by the Office of Senate Floor Analyses;
5. Material from the legislative bill file of the Office of Senate Floor Analyses on Senate Bill 447;
6. Analysis of Senate Bill 447 prepared for the Assembly Committee on Finance and Insurance;
7. Material from the legislative bill file of the Assembly

8. Committee on Finance and Insurance on Senate Bill 447;
Material from the legislative bill file of the Assembly
Republican Caucus on Senate Bill 447;
9. Unfinished business analyses of Senate Bill 447 prepared by
the Office of Senate Floor Analyses;
10. Post-enrollment documents regarding Senate Bill 447.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 22nd of October, 2013 at Woodland, California.



MARIA A. SANDERS

Introduced by Senator Vuich

February 19, 1985

An act to amend Sections 22053, 22053.1, 22054, 224450.1, 22455, 22470, 22482, 24053, 24053.1, 24054, 244450.1, 24470, 24482, and 26007.5 of, to amend and renumber Section 26054.1 of, and to repeal Sections 22054.1 and 2405 of, the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law provides that specified provisions of 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 among others, any commercial loan of a bona fide principal amount of \$5,000 or more, if the exemptions are not used 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 reports and interest provisions from \$5,000 to \$2,500.

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

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 dollar
 34 ~~(\$10,000)~~ the specified amount or more, the fact that the
 35 transaction is in the form of a sale of accounts, chatte
 36 paper, contract rights, goods, or instruments or a lease o
 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 indicat
 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 22052 or
12 22052.1 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 (c) 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) or
33 thousand five hundred dollars (\$2,500) or more and an
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.

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

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 dollar*
 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 charge
 29 computed as a percentage of the loan, which are full
 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
 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 dollar
 38 (\$10,000) or more, or to a duly licensed consumer financ
 39 lender in connection with any such loan or loans, if th
 40 provisions of this section are not used for the purpose (