



## NEW CA BILL PROPOSES NEW INTEREST RATE CAP ON LOANS

On February 13th, two Democratic California Assembly Members introduced Assembly Bill No. 539, which among other things, would amend the California Financing Law ("CFL") to set the permissible annual simple interest rate on loans of \$2,500 or more but less than \$10,000 at 36% plus the federal funds rate (2.4% as of January 2019). Currently, the CFL does not regulate the interest rate on these loan amounts.

Assembly Bill No. 539 also proposes the following changes to the CFL:

- Removes the exception from the definition of "charges" for participation fees in connection with open-end credit programs;
- Applies principles to determine the bona fide principal amount of a loan to loans of \$2,500 or more but less than \$10,000;
- Clarifies that interest rates permitted under the CFL will not be deemed unconscionable based on the interest rate alone;
- Prohibits licensees from charging a prepayment penalty on loans other than real estate-secured loans;
- Places a new maximum loan term of 60 months and 15 days on installment loans (other than real estate-secured loans) of \$5,000 or more but less than \$10,000; and
- Sets a minimum loan term of 12 months for installment loans greater than \$2,500, but less than \$10,000.

One goal of the bill purportedly is to remove uncertainty created by the California Supreme Court's decision in *De La Torre v. CashCall, Inc.* In that case, the court held that interest rates on consumer loans of \$2,500 or more may be deemed unconscionable under Section 22302 of the CFL. See our ALERT dated Aug. 15, 2018.

This proposed legislation could affect both consumer loan programs and business loan programs available to California residents. We will keep you updated as this bill makes it ways through the California legislature. ☐

✧ *Michael Tomkies and Susan Seaman*

Darrell L. Dreher  
[ddreher@dtlaw.com](mailto:ddreher@dtlaw.com)

Elizabeth L. Anstaett  
[eanstaett@dtlaw.com](mailto:eanstaett@dtlaw.com)

Emily C. Cellier  
[ecellier@dtlaw.com](mailto:ecellier@dtlaw.com)

Susan L. Ostrander  
[sostrander@dtlaw.com](mailto:sostrander@dtlaw.com)

2750 HUNTINGTON CENTER  
41 S. HIGH STREET  
COLUMBUS, OHIO 43215  
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600  
[WWW.DTLAW.COM](http://WWW.DTLAW.COM)

*To see previously sent ALERTS, visit our website at [www.dtlaw.com](http://www.dtlaw.com)*

*To decline future ALERTS, please contact us at [ALERTS@DLTAW.COM](mailto:ALERTS@DLTAW.COM). This ALERT has been prepared for informational purposes only. It does not constitute legal advice and does not create an attorney-client relationship.*

Michael C. Tomkies  
[mtomkies@dtlaw.com](mailto:mtomkies@dtlaw.com)

Susan M. Seaman  
[sseaman@dtlaw.com](mailto:sseaman@dtlaw.com)

Lindsay P. Valentine  
[lvalentine@dtlaw.com](mailto:lvalentine@dtlaw.com)

Judith M. Scheiderer  
[jscheiderer@dtlaw.com](mailto:jscheiderer@dtlaw.com)

Robin R. De Leo  
[robin@deher-la.com](mailto:robin@deher-la.com)