

different rates of interest on theory that the maximum limitation on the aggregate amounts which could be charged borrowers did not take into consideration variations in interest charges. Id.

The Small Loan Act which prohibits an interest charge of more than 10 per cent. per annum and also denies a licensee the right to contract for or receive service or expense charges beyond the actual outlay and limits the aggregate amount of such interest and charges to  $2\frac{1}{2}$  per cent. per month on loans of less than \$100 and 2 per cent. on any remainder of an unpaid balance of principal in excess of that amount, is not invalid on ground that it authorizes greater charges than permitted by the usury law, an initiative measure, and constitutional amendment, limiting interest to 10 per cent. Id.

## 2. Construction and application

The Small Loan Act limiting interest to 10 per cent. per annum did not permit rate of interest greater than 10 per cent. allowed by Const. art. 20, § 22 because of provision that a month should be a period of 30 consecutive days, and that the aggregate total of interest and charges should not exceed  $2\frac{1}{2}$  per cent. per month on the first \$100 of any loan and 2 per cent. per month on the remainder of the loan. Ex parte Fuller (1940) 102 P.2d 321, 15 C.2d 425.

The restrictions on interest, fees, bonuses, commissions, discounts, or other compensation set forth in Const. art. 20, § 22 which is fixed in the aggregate at 10 per cent. per annum, applies to loans in excess of \$300.00 made by a person licensed under the Small Loan Act but a loan made by a licensee under said act in excess of \$300.00 cannot be divided so that the charge as fixed by the Small Loan Act applies to the first \$300.00 and the constitutional provisions to the remainder. 8 Ops. Atty. Gen. 133.

Under California Small Loan Act, persons engaged exclusively in the business of lending money in amounts in excess of \$300.00 are not required to obtain a license from the Commissioner of Corporations under the Small Loan Act. Id.

## 3. In general

Small Loan Act, as amended, does not prohibit a licensee under said act from making unsecured loans in amounts in excess of \$300.00. 8 Ops. Atty. Gen. 133.

## 4. Amount of loan

Where an industrial loan company, under the Industrial Loan Act, has an existing contract with a borrower and is charging the maximum on the first \$300 on such loan, and a second loan is made to the same borrower, the two loans are to be considered together, and on the excess over \$300, 10% per annum is the limit of the charges. 13 Ops. Atty. Gen. 144.

Small Loan Act may legally be amended to specifically limit the amount of interest and charges that may be exacted from borrowers on loans regardless of size. 9 Ops. Atty. Gen. 49.

Small Loan Act, may legally be amended to specifically limit the amount of interest and charges that may be exacted from borrowers of amounts up to and including \$500, instead of \$300. Id.

Small Loan Act may legally be amended to specifically limit the amount of interest and charges exacted from a borrower of an amount in excess of \$300 to ten per cent per annum permitting however, a rate of charge of  $2\frac{1}{2}$  per cent per month for the first \$100 and two per cent per month for the next \$200 of such loan. Id.

§ 24452. *Charges for service and expense; maximum aggregate amount of charges and interest.* No licensee shall contract for or receive any service or expense charges beyond the actual outlay. The charges for actual outlay, when added to interest computed at the rate permitted by this article, shall not exceed an aggregate amount of two and one-half per cent ( $2\frac{1}{2}\%$ ) per month on that portion of the unpaid principal balance of any loan not in excess of one hundred dollars (\$100), and two percent (2%) per month on any remainder of such unpaid principal balance. (Stats. 1951, c. 364, p. 1151, § 24452.)

Derivation: Stats. 1939, c. 1045, p. 2892, § 16.

## LAW REVIEW COMMENTARIES

Discounted interest as usury. (1945) 18 So. Cal. L.R. 274.

Interest on obligations after maturity. (1945) 18 So. Cal. L.R. 258.

Protection afforded the borrower by California Usury Law. (1932) 20 C.L.R. 361.