

AMENDED IN SENATE JULY 1, 1999
AMENDED IN ASSEMBLY MAY 6, 1999
AMENDED IN ASSEMBLY APRIL 29, 1999
AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1004

Introduced by Assembly Member Papan

February 25, 1999

An act to amend Sections ~~1805.4 and 1810.4 of the Civil Code, and to amend Sections~~ 18631 and 22320 of the Financial Code, relating to loan charges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Papan. Loan charges.

Existing law relative to consumer loans, ~~retail installment contracts, and retail installment accounts~~ authorizes the imposition by the lender on the loan or by the seller or holder of the contract or account of an amount not to exceed \$15 for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft. Existing law authorizes an industrial loan company insurance premium finance agreement to provide for a payment of a dishonored check fee not to exceed \$5, for actual expenses incurred in processing the check.

This bill would increase those authorized fee amounts to \$20 until January 1, 2001, and to \$25 thereafter.

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 1805.4 of the Civil Code is~~
2 ~~amended to read:~~
3 ~~1805.4. The finance charge shall be inclusive of all~~
4 ~~charges incident to investigating and making the contract~~
5 ~~and for the extension of the credit provided for in the~~
6 ~~contract, and no fee, expense or other charge whatsoever~~
7 ~~shall be taken, received, reserved or contracted for~~
8 ~~except as otherwise provided in this chapter.~~
9 ~~The seller or holder of a retail installment contract may~~
10 ~~charge and collect a fee not to exceed twenty dollars~~
11 ~~(\$20) effective January 1, 2000, and twenty-five dollars~~
12 ~~(\$25) effective January 1, 2001, for the return by a~~
13 ~~depository institution of a dishonored check, negotiable~~
14 ~~order of withdrawal, or share draft issued in connection~~
15 ~~with the retail installment contract. The fee is not~~
16 ~~included in charges as defined in this chapter or in~~
17 ~~determining the applicable charges which may be made~~
18 ~~under this chapter.~~
19 ~~SEC. 2. Section 1810.4 of the Civil Code is amended~~
20 ~~to read:~~
21 ~~1810.4. The finance charge shall include all charges~~
22 ~~incident to investigating and making the retail~~
23 ~~installment account. No fee, expense, delinquency,~~
24 ~~collection, or other charge whatsoever shall be taken,~~
25 ~~received, reserved, or contracted by the seller or holder~~
26 ~~of a retail installment account except as provided in this~~
27 ~~section. A seller may, however, in an agreement which is~~
28 ~~accepted by the buyer and of which a copy is given or~~
29 ~~furnished to the buyer provide for the payment of~~
30 ~~attorney's fees and costs in conformity with Article 11~~
31 ~~(commencing with Section 1811.1). Any subsequent~~
32 ~~change in any term of the agreement shall not become~~
33 ~~effective until the seller has given notice of the change~~
34 ~~and complies with the provisions of subdivision (d) of~~
35 ~~Section 1810.3. When credit cards are issued in~~



1 ~~connection with a retail installment account, the seller,~~
 2 ~~either in the agreement or after giving the notice~~
 3 ~~required by subdivision (d) of Section 1810.3, may~~
 4 ~~require the payment of an annual fee of not more than~~
 5 ~~fifteen dollars (\$15) for membership in the credit card~~
 6 ~~plan, which fee shall not be deemed a finance charge or~~
 7 ~~interest for any purpose of the law.~~

8 ~~The seller or holder of a retail installment account may~~
 9 ~~charge and collect a fee not to exceed twenty dollars~~
 10 ~~(\$20) effective January 1, 2000, and twenty-five dollars~~
 11 ~~(\$25) effective January 1, 2001, for the return by a~~
 12 ~~depository institution of a dishonored check, negotiable~~
 13 ~~order of withdrawal, or share draft issued in connection~~
 14 ~~with the retail installment account. The fee is not~~
 15 ~~included in charges as defined in this chapter or in~~
 16 ~~determining the applicable charges which may be made~~
 17 ~~under this chapter.~~

18 ~~SEC. 3.~~

19 ~~SECTION 1.~~ Section 18631 of the Financial Code is
 20 amended to read:

21 18631. (a) A premium finance agreement may
 22 provide for the payment of a default charge of one dollar
 23 (\$1) to a maximum of 5 percent of the delinquent
 24 installment, in the event of a default for a period of not
 25 less than 10 days in the payment of any scheduled
 26 installment under the terms of a premium finance
 27 agreement. Such charge may not be collected more than
 28 once for the same default and may be collected at the
 29 time of such default or at any time thereafter. If such
 30 default charge is deducted from any payment received
 31 after default occurs, and such deduction results in the
 32 default of a subsequent installment, no charge may be
 33 made for the resulting default.

34 (b) A premium finance agreement may provide for
 35 the payment of a dishonored check fee not to exceed
 36 twenty dollars (\$20) effective January 1, 2000 and
 37 twenty-five dollars (\$25) effective January 1, 2001.

38 ~~SEC. 4.~~

39 ~~SEC. 2.~~ Section 22320 of the Financial Code is
 40 amended to read:



1 22320. With respect to a loan under this division, a fee
2 not to exceed twenty dollars (\$20) effective January 1,
3 2000, and twenty-five dollars (\$25) effective January 1,
4 2001, for the return by a depository institution of a
5 dishonored check, negotiable order of withdrawal, or
6 share draft may be charged and collected by the licensee.
7 The fee is not included in charges defined in this division
8 or in determining the applicable maximum charges that
9 may be made under this article.

