

1976

INTEREST RATE

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Ballot Title

INTEREST RATE. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Amends Constitution, Article XX, section 22, to permit increase in maximum permissible contract rate of interest collectible by nonexempt lender for loan or credit advance for nonpersonal, nonfamily, nonhousehold purpose to the higher of 10% per annum or 7% plus prevailing interest rate on certain designated dates. Financial impact: None.

FINAL VOTE CAST BY LEGISLATURE ON SCA 19 (PROPOSITION 12):

ASSEMBLY—Ayes, 62	SENATE—Ayes, 29
Noes, 6	Noes, 0

Analysis by Legislative Analyst

PROPOSAL:

Every lender of money, unless specifically exempted by the Constitution, is prohibited from charging interest of more than 10 percent per year on any loan. Savings and loan associations, state and national banks, industrial loan companies, credit unions, pawnbrokers, personal property brokers and agricultural cooperatives are specifically exempted from the above provision.

This proposition provides that the 10 percent per year interest limitation on nonexempt lenders, such as individuals, insurance companies and mortgage banks,

only applies to loans for personal, family, or household purposes. On other loans these nonexempt lenders would be permitted to charge an interest rate that is the higher of (1) 10 percent per year or (2) seven percent plus the prevailing rate charged to member banks for monies advanced by the Federal Reserve Bank of San Francisco. In January 1976, the Federal Reserve rate was 5½ percent, which added to the seven percent, would total 12½.

FISCAL EFFECT:

The proposition has no fiscal effect on state or local governments.

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Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 19 (Statutes of 1975, Resolution Chapter 132) amends an existing section of the Constitution. Therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XX, SECTION 22 (AS ADOPTED NOVEMBER 6, 1934)

SEC. 22. The rate of interest upon the loan or forbearance of any money, goods or things in action, or on accounts after demand or judgment rendered in any court of the ~~State state~~, shall be ~~7 per cent~~ *percent* per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest : ~~not exceeding 10 per cent~~ *per annum*.

(1) For any loan or forbearance of any money, goods or things in action, if the money, goods or things in action are for use primarily for personal, family or household purposes, at a rate not exceeding 10 percent per annum, or

(2) For any loan or forbearance of any money, goods or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 7 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate for advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than ~~10 per cent per annum~~ *the amount of interest per annum allowed by this section* upon any loan

or forbearance of any money, goods or things in action.

However, none of the above restrictions shall apply to any building and loan association as defined in and which is operated under that certain act known as the "Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 4 of Division VI of the Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any Federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonus, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.

Argument in Favor of Proposition 12

By an overwhelming vote of Democratic and Republican state legislators, Proposition 12 was placed on the June 8th ballot in order to stimulate the economy, create jobs throughout California, and encourage business growth.

The measure will put a more realistic limitation on the interest rate that can be charged on money borrowed by business firms in California. The present rate limitation, which is the lowest in the nation, has had the unintended effect of handcuffing business' ability to finance expansion and generate new jobs.

A YES vote on this vital constitutional amendment will not raise or change in any way present rate limitations now protecting consumers. The measure was carefully written so that it would not affect consumer loan interest rates. In fact, the amendment was not opposed by any consumer groups during the public hearings held by the Legislature.

By making more money available for plant expansion, increased production, or other capital outlay, Proposition 12 will stimulate business activity statewide, which means more jobs for Californians.

Proposition 12 will be especially helpful to people who work in housing, construction and manufacturing by providing much-needed capital from both California and out-of-State investors. It will also provide good investment opportunities in California for union pension funds, teacher retirement funds, employee retirement and insurance funds.

Without passage of this amendment, monies available for business loans will continue to go to business firms in other states, leaving California companies at a serious

economic disadvantage. Only two other states, Arkansas and Tennessee, impose a discriminatory business loan interest rate limit similar to California's.

The present restriction is simply out of date. It was set in the Constitution over 40 years ago and badly needs revision. There is no reason why California should continue to handicap its business and industrial progress with this unfair and out-dated restriction.

A YES vote will establish a flexible, realistic interest rate limitation, enabling California businesses to borrow competitively and thus have funds to support a healthy, vigorous economy.

The new business loan interest rate will be limited to the higher of either 10%, or 7% plus the Federal Reserve "discount rate". The "discount rate" is the rate at which banks borrow money from the Federal Reserve. It is carefully controlled by the federal government, and has never exceeded 8%.

Proposition 12 is strongly supported by labor organizations, chambers of commerce, women's groups, civic leaders, ethnic minorities, and consumer-minded citizens, all of whom want a healthy, expanding economy in California.

A YES vote makes good economic sense—and good common sense.

BILL GREENE

Member of the Senate, 29th District

JOYCE REAM

San Francisco Community Leader

DR. NORMAN TOPPING

Chancellor, USC

Rebuttal to Argument in Favor of Proposition 12

Voters in California should again reject this effort to institute higher interest rates in a period when we are trying to come out of a recession caused by high interest payments. To lead consumers to believe that they are not affected by these higher rates is simply not right. This amendment would not shield consumers because penalty provisions in our laws are strictly read by the Courts, and the interest rates can be applied to anyone—businesses or consumers.

This proposition does not exempt consumers, it simply says that no loans primarily used for personal, family or household purposes the rate cannot be over 10%. If this proposition succeeds the first time you, the consumers, borrow money for anything and it turns out to be 49% for personal family or household needs, and 51% for some other need you will be zapped with rates

ranging anywhere from 13% to 15%—depending on the going rate.

You get it both ways: if the utilities and other businesses borrow at higher rates, they will pass the increase on to you; if you borrow for yourself, they'll get you directly for a loan not "primarily" household.

Jobs are created by the need for goods and services. If we continue to make goods and services so expensive that the average citizen still cannot afford them, there will be even less jobs. Do not be hood-winked by fast and loose arguments and prominent names. Vote your pocketbook! Vote NO on Proposition 12!

JOHN J. MILLER

*Member of the Assembly, 13th District
Chairman, Committee on Judiciary*

Argument Against Proposition 12

This measure attempts to change the section in our Constitution which has protected the public against usury since 1934. The same conditions which caused those safeguards to be enacted in 1934 exist today: The economy is placing heavy burdens on borrowers and heavy interest rates are being disguised as charges. Since consumers are still suffering from the same economic stress, this constitutional protection should not be tampered with today. Furthermore, the Legislature has not seen any need to change this section for over 41 years. Why should the section now be changed when inflation and high interest rates are hurting everyone?

This Constitutional amendment was initially sponsored in the Legislature by gas and electric public utilities. It would have substantial and widespread effects on consumer finance in California.

The present section now provides little enough

protection for consumers: It places ceilings on interest rates that lenders may charge, but then exempts all of the banks and savings and loan companies who do business with the consumer. Now this measure proposes to add more corporations to that category including premium finance companies, mortgage brokers and restricted industrial loan companies. Whereas the present usury law maximum is 10% per annum, this amendment, if enacted would raise the limit to 13% or even 15%. The consumer is suffering enough from today's high interest rates.

California voted against relaxing usury laws in 1970. The voters should again reject this weakening of the usury laws and demand stronger laws against usury. Vote No on Proposition 12.

JOHN J. MILLER
Member of the Assembly, 13th District
Chairman, Committee on Judiciary

Rebuttal to Argument Against Proposition 12

Proposition 12 was carefully written by the Legislature to accomplish one key goal: to enable California business firms, small as well as large, to borrow at reasonable, competitive interest rates.

According to recent studies, present law has cost our state hundreds of millions of dollars in new business just over the last 18 months. This has meant the loss of from eighteen to twenty thousand new jobs.

In other states the business loan interest rate limitations have been modernized and reformed, leaving only California, Arkansas, and Tennessee with such an archaic, unrealistic limitation.

Importantly, Proposition 12 will have absolutely no effect on the rate of interest paid by consumers or home buyers. This reform affects only business loans (loans made to business firms for the purpose of financing expansion, new equipment, growth and new jobs).

The argument against Proposition 12, in making reference to consumer loan interest rates, does not

apply to this ballot measure. Proposition 12 clearly states, "for non-personal . . . non-family and non-household purposes."

What Proposition 12 does seek to change is the interest rate paid by business firms. Business people, community leaders and working people around the state are calling for this change because our present 42-year-old law puts California firms at a competitive disadvantage with firms outside of California.

Passage of Proposition 12 will help stimulate a growing, healthy economy.

We urge you to vote YES on Proposition 12.

BILL GREENE
Member of the Senate, 29th District

JOYCE REAM
San Francisco Community Leader

DR. NORMAN TOPPING
Chancellor, USC