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## FISCAL IMPACT REPORT

SPONSOR Roybal Caballero ORIGINAL DATE 1/25/16  
 LAST UPDATED \_\_\_\_\_ HJR 11

SHORT TITLE Limit Certain Interest Rates, CA SB \_\_\_\_\_

ANALYST Liu

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$104.0	\$0.0	\$104.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Companion to HB 84

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State (SOS)

Regulation and Licensing Department (RLD)

### SUMMARY

House Joint Resolution 11 proposes to amend Article 20 of the constitution to limit interest rates charged or received by certain persons for the extension of credit to 36 percent or less per year. The limitation on interest rates for the extension of credit would not apply to any federally insured depository institution or any government-issued bond. If approved by the Legislature, the amendment would be passed through referendum.

### FISCAL IMPLICATIONS

If passed through referendum, fiscal implications on revenues from licensed lenders would follow in enabling legislation.

The Secretary of State (SOS) provided the following:

Costs of constitutional amendments are primarily dependent upon the number of constitutional amendments passed by the Legislature, length of the language contained in the amendments, and number of registered voters in the state. Cost factors to consider with each constitutional amendment include:

- publishing the statutorily required voter guide for 10 percent of registered voters,
- publishing the constitutional amendment language in one newspaper in each county in the state, in English and Spanish, for four weeks as well as providing translation and dissemination in indigenous and minority languages,
- printing costs as the increase in ballot length proportionately increases the cost of printing ballots, and
- leasing and deploying additional ballot on demand systems at voting convenience centers because longer ballots slow down printing speeds and increase waiting times for voters.

As of December 31, 2015 there were nearly 1.2 million registered voters in the state. The SOS anticipates growth in voter registration as a result of online registration options and participation levels in a presidential election year.

The price for amendments in the 2014 general elections for constitutional amendment publication in English was 63 cents per line per newspaper (33) for the first run, and 49 cents per line per newspaper (33) for the additional three runs. The cost of the publication in Spanish was the same per line costs, and was published in four newspapers. The total costs of publications was wholly dependent upon the number of constitutional amendments appearing on the ballot and therefore requiring publication. For example, in 2010, the publication cost was \$520 thousand for five constitutional amendments. As such it was approximately \$104 thousand per amendment to do only the constitutionally-required publication.

## **SIGNIFICANT ISSUES**

The Regulation and Licensing Department provided the following:

Page 1, lines 18 through 20, does not include any reference to “fees” assessed to consumers in the calculation of interest pursuant to 12 C.F.R. 226, known as “Regulation Z”. Under “Regulation Z” the term “annual percentage rate” includes interest on both principal and allowable fees included in a loan agreement.

Under the terms of the proposed constitutional amendment a maximum annual interest rate of 36 percent would be charged on “any principal or interest owed.” The proposed amendment does not address “fees” that lenders may require as conditions for a loan (i.e. application fees, processing fees, recording fees, etc.). Under the terms of the proposed amendment, lenders who previously made loans under loan agreements including substantially higher annual interest rates might amend the terms of their future lending agreements to include numerous high-cost “fees” in order to offset lost profits due to reduced interest income.

## **COMPANIONSHIP**

House Bill 84 provides enabling legislation and implementation details on an interest rate cap of thirty-six percent per year for extension of credit. The bill amends Section 56-8-9 NMSA 1978 and Section 58-7-1 NMSA 1978, which define limitations on the maximum rate of interest for small loans and bank installment loans, and repeals Section 58-15-33 NMSA 1978, which outlines permitted charges for payday loan products.