

## CA Dept. of Business Oversight files action against title lender for CA law violations; launches investigation into whether lender's interest rates are unconscionable

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The California Department of Business Oversight (DBO) has filed an administrative enforcement action against a title lender for alleged violations of California law and launched an investigation into whether the interest rates charged by the lender are unconscionable.

According to the DBO's [Accusation](#), the lender is licensed under the California Financing Law (CFL). The DBO seeks to revoke all of the lender's licenses, void any loans on which the lender charged amounts other than or in excess of the charges permitted by the CFL, require the lender's forfeiture of all interest and excess charges (and allow only the collection of principal) on loans less than \$5,000 where the lender charged amounts other than or in excess of the charges permitted by the CFL, and require the lender's forfeiture of all interest and charges (and allow only the collection of principal) on loans less than \$10,000 where the lender violated the CFL "in making or collecting upon the loan."

The DBO alleges that the lender violated the CFL by:

- Including in the loan principal fees (1) that borrowers were required to pay to the California Department of Motor Vehicles as a condition of an auto title loan to pay off any outstanding fees owed by the borrower on the vehicle securing the loan, and (2) for a duplicate car key that borrowers were required to provide as a condition of a loan where the borrower did not have a duplicate key at the time the loan was made. The DBO claims that the DMV and key fees were "charges" as defined by the CFL that could not permissibly be included in the loan principal. According to the DBO, on loans where the loan principal was less than \$2,500 once the DMV or key fees were excluded, the lender charged interest rates in excess of those permitted by the CFL on loans less than \$2,500. The DBO also alleges that the DMV fees exceeded the CFL's limits on administrative fees and that that the lender violated the CFL by failing to amortize the key fees over the life of a loan and receiving the key fees in advance.
- Failing to assess borrowers' ability to repay loans as provided in the loan contracts
- Engaging in false and misleading advertising by claiming it could make loans without regard to a borrower's credit history or score
- Transacting business from unlicensed locations
- Failing to maintain adequate books and records

In the DBO's [press release](#) announcing the filing of the administrative action, the DBO announced that it also had begun an investigation "to determine whether the more than 100 percent rates that [the lender] charges on most of its auto title loans may be unconscionable under the law." The DBO references the California Supreme Court's August 2018 [De La Torre opinion](#), quoting language from the opinion regarding the DBO's power "to take action when the interest rates charged by [state-licensed lenders] prove unreasonably and unexpectedly harsh."

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