

Whom Should The Law Protect - The Borrower/Issuer Or Lender/Purchaser?

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The many California laws are intended to protect borrowers. The California Financing Law, for example, provides that it is to be liberally construed to, among other things, "protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders". Cal. Fin. Code § 22001(a)(4). Other laws, such as the California Corporate Securities Law of 1968, are intended to protect investors in securities transactions.

In some cases, a note will be a security subject to the CSL. In fact, the statutory definition of "security" begins with the words "any note". When a note is a security, the borrower is the issuer. Consequently the objects of protection under the CSL and the CFL will be different in the case of note that is also security, with the CSL intended to protect the purchaser of the note (*i.e.*, the lender) and the CFL intended to protect the issuer of the note (*i.e.*, the borrower).

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