

AMENDED IN ASSEMBLY JANUARY 18, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY APRIL 23, 2007

AMENDED IN ASSEMBLY FEBRUARY 1, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 69

Introduced by Assembly Member Lieu
(Coauthors: Assembly Members Swanson and Wolk)

December 4, 2006

An act to ~~amend Sections 5310 and 22715 of, and to add~~ *add and repeal* Sections 1934.5, ~~5205.7,~~ 14255.5, 22159.5, and 50307.1 ~~to,~~ *of* the Financial Code, relating to mortgage lending.

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as amended, Lieu. Mortgage lending: reporting.

(1) Existing law provides for the regulation of state commercial and industrial banks, ~~savings associations,~~ and credit unions by the Commissioner of the Department of Financial Institutions. Existing law requires those banks, ~~savings associations,~~ and credit unions to submit specified reports to the commissioner. Existing law provides for specified penalties for a violation thereof.

This bill would, *until July 1, 2010*, require the entities described above, if servicing ~~or originating~~ loans secured by real property, to report to the commissioner monthly with specified information related to different types of loans serviced ~~or originated~~ by those entities, including whether the loans are past due, in foreclosure, or have been modified. The bill would require the Department of Financial Institutions

to make information on these reports available on its Internet Web site and to the Legislature, as specified. ~~The bill would make those entities that fail to submit those reports subject to the penalties described above, as applied respectively.~~

(2) Existing law provides for the regulation and licensure of finance lenders and brokers by the Commissioner of Corporations. Existing law requires a licensee to submit specified reports to the commissioner. Existing law provides for the suspension or revocation of the license of any licensee that fails to submit those reports.

Existing law provides for the regulation and licensure of residential mortgage lenders and residential mortgage loan services by the Commissioner of Corporations. Existing law requires a licensee to submit specified reports to the commissioner. Existing law provides for specified penalties against a licensee that fails to submit those reports and authorizes the commissioner to examine the books, records, and affairs of a licensee for failure to submit the reports.

This bill would, *until July 1, 2010*, require the licensees described above to report to the commissioner monthly with specified information related to different types of loans serviced ~~or originated~~ by those licensees, including whether the loans are past due, in foreclosure, or have been modified. The bill would require the Department of Corporations to make information on these reports available on its Internet Web site and to the Legislature, as specified. ~~The bill would make a licensee that fails to submit those reports subject to the penalties described above, as applied respectively.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1934.5 is added to the Financial Code,
- 2 to read:
- 3 1934.5. (a) Any bank that services ~~or originates~~ loans secured
- 4 by real property shall file a report with the commissioner monthly
- 5 that contains all of the following and any other information
- 6 *concerning loan modifications* requested by the commissioner:
- 7 (1) The total number of loans serviced.
- 8 (2) ~~Serviced loans~~ *The total number of nontraditional loans*
- 9 *serviced that were* originated and funded by an unaffiliated party.

- 1 ~~(3) Serviced loans~~—*The total number of nontraditional loans*
2 *serviced where the originator or funding party is affiliated with*
3 *the licensee.*
- 4 ~~(4) Serviced loans~~—*The total number of nontraditional loans*
5 *serviced that are secured by owner-occupied residences.*
- 6 ~~(5) Serviced loans~~—*The total number of nontraditional loans*
7 *serviced that are for investment or second residence properties.*
- 8 ~~(6) Loans serviced or originated~~—*The total number of*
9 *nontraditional loans serviced that are secured by a first mortgage*
10 *only.*
- 11 ~~(7) Loans serviced or originated~~—*The total number of*
12 *nontraditional loans serviced that are secured by a second*
13 *mortgage only.*
- 14 ~~(8) Loans serviced or originated~~—*The total number of*
15 *nontraditional loans serviced that are secured by both a first and*
16 *second mortgage.*
- 17 ~~(9) Prime loans serviced or originated in the following~~
18 ~~categories:~~
19 ~~and second mortgage.~~
- 20 (9) *The total number of subprime loans serviced that were*
21 *originated and funded by an unaffiliated party.*
- 22 (10) *The total number of subprime loans serviced where the*
23 *originator or funding party is affiliated with the licensee.*
- 24 (11) *The total number of subprime loans serviced that are*
25 *secured by owner-occupied residences.*
- 26 (12) *The total number of subprime loans serviced that are for*
27 *investment or second residence properties.*
- 28 (13) *The total number of subprime loans serviced that are*
29 *secured by a first mortgage only.*
- 30 (14) *The total number of subprime loans serviced that are*
31 *secured by a second mortgage only.*
- 32 (15) *The total number of subprime loans serviced that are*
33 *secured by both a first and second mortgage.*
- 34 (16) *The total number of nontraditional loans serviced in the*
35 *following categories:*
- 36 (A) *Fixed rate, fully amortizing loans.*
- 37 (B) *Hybrid adjustable rate mortgages mortgage loans.*
- 38 (C) *Adjustable rate, fully amortizing loans.*
- 39 (D) *Loans with interest only features.*

- 1 (E) Payment option adjustable rate mortgages and other loans
- 2 with negative amortization features.
- 3 ~~(F) Other real property loans that are not subprime loans under~~
- 4 ~~paragraph (10):~~
- 5 ~~(10) Subprime loans serviced or originated~~
- 6 *(17) The total number of subprime loans serviced in the*
- 7 *following categories:*
- 8 (A) Fixed rate, fully amortizing *loans*.
- 9 (B) Hybrid adjustable rate ~~mortgages~~ *mortgage loans*.
- 10 (C) Adjustable rate, fully amortizing *loans*.
- 11 (D) Loans with interest only features.
- 12 (E) Payment option adjustable rate mortgages and other loans
- 13 with negative amortization features.
- 14 ~~(F) Other real property loans that are not prime loans under~~
- 15 ~~paragraph (9):~~
- 16 ~~(11) The following information for prime loans, subprime loans,~~
- 17 ~~and alternative mortgage loans serviced or originated:~~
- 18 *(18) The following information for subprime loans and*
- 19 *nontraditional loans serviced:*
- 20 (A) ~~Loans~~ *The total number of loans 30 to 59 days past due.*
- 21 (B) ~~Loans~~ *The total number of loans 60 to 89 days past due.*
- 22 (C) ~~Loans~~ *The total number of loans 90 days or more past due.*
- 23 (D) ~~Loans~~ *The total number of loans described in subparagraph*
- 24 *(A), (B), or (C) that have been modified in the last 12 months.*
- 25 (E) ~~Loans~~ *The total number of loans in the process of*
- 26 *foreclosure.*
- 27 (F) ~~Loans~~ *The total number of loans where notice of default has*
- 28 *been sent.*
- 29 (G) ~~Loans~~ *The total number of loans where formal foreclosure*
- 30 *proceedings have been started.*
- 31 (H) ~~Loans~~ *The total number of loans where foreclosure*
- 32 *proceedings have been completed.*
- 33 (I) ~~Loans~~ *The total number of loans that entered delinquency*
- 34 *within three six payments of an interest rate increase.*
- 35 (J) *The percentage of loans described in subparagraphs (A) to*
- 36 *(I), inclusive, that are securitized.*
- 37 ~~(12)~~
- 38 (19) *The following loss mitigation efforts that are in process or*
- 39 *are closed relative to mortgage loans serviced or originated:*
- 40 (A) Deeds in lieu.

- 1 (B) Short sales.
- 2 (C) Forbearances.
- 3 (D) Repayment plans.
- 4 (E) Refinances or paid in full.
- 5 (F) Reinstatement by an account becoming current.
- 6 (G) Modification by principal reduction or by interest rate or
- 7 term of debt modification.
- 8 ~~(13) Whether a prepayment penalty was waived for any loss~~
- 9 ~~mitigation action under paragraph (12).~~
- 10 (H) *The percentage of loans described in subparagraphs (A)*
- 11 *to (G), inclusive, that are securitized.*
- 12 (20) *The number of prepayment penalties waived in connection*
- 13 *with each of the loss mitigation actions under paragraph (19).*
- 14 (21) *The number of prepayment penalties assessed in connection*
- 15 *with each of the loss mitigation actions under paragraph (19).*
- 16 ~~(14)~~
- 17 (22) Information on closed loan modifications under paragraph
- 18 ~~(12)~~ (19), including the following:
- 19 (A) The duration of the modification relative to the life of the
- 20 loan.
- 21 (B) The types of modifications closed.
- 22 (C) Modifications by freezing the interest rate at the initial or
- 23 start rate.
- 24 (D) Modifications by reducing the interest rate below the initial
- 25 or start rate.
- 26 (E) Modifications by reducing the interest rate below the
- 27 scheduled adjustable rate increase (reset) but above the initial or
- 28 start rate.
- 29 (F) Modifications with extension of the term of the loan.
- 30 (G) Modifications with reduction in principal balance.
- 31 (H) Modifications using a combination of the methods described
- 32 in this paragraph.
- 33 (I) Any other types of modifications.
- 34 (J) *The percentage of loans described in subparagraphs (A) to*
- 35 *(I), inclusive, that are securitized.*
- 36 (b) ~~A summation of all~~ The reports made to the commissioner
- 37 pursuant to subdivision (a) shall be posted on the department's
- 38 ~~Internet Web site and the full data shall be made available to the~~
- 39 ~~Legislature upon request.~~

1 ~~(e) A bank that fails to report under subdivision (a) shall be~~
2 ~~subject to Section 1938.~~

3 *Internet Web site on a servicer-specific basis.*

4 *(c) Nothing in this section shall prevent the commissioner from*
5 *accepting data voluntarily submitted from a federally supervised*
6 *financial institution.*

7 *(d) The data collected under this section shall be for loans*
8 *secured by residential real property.*

9 *(e) For purposes of this section the following definitions shall*
10 *apply:*

11 *(1) "Subprime loan" means a loan where the difference between*
12 *the annual percentage rate for the loan and the yield on Treasury*
13 *securities having comparable periods of maturity is either equal*
14 *to or greater than (A) 3 percentage points if the loan is secured*
15 *by a first lien mortgage or deed of trust, or (B) 5 percentage points*
16 *if the loan is secured by a subordinate lien mortgage or deed of*
17 *trust.*

18 *(2) "Nontraditional loan" or "nontraditional mortgage" means*
19 *any mortgage product that allows the borrower to defer payment*
20 *of principal and, sometimes, interest, as set forth in the*
21 *"Interagency Guidance on Nontraditional Mortgage Product*
22 *Risks" (71 Fed. Reg. 58609 (Oct. 4, 2006)).*

23 *(f) This section shall become inoperative on July 1, 2010, and,*
24 *as of January 1, 2011, is repealed, unless a later enacted statute,*
25 *that becomes operative on or before January 1, 2011, deletes or*
26 *extends the dates on which it becomes inoperative and is repealed.*

27 ~~SEC. 2. Section 5205.7 is added to the Financial Code, to read:~~

28 ~~5205.7. (a) Any savings association that services or originates~~
29 ~~loans secured by real property shall file a report with the~~
30 ~~commissioner monthly that contains all of the following and any~~
31 ~~other information requested by the commissioner:~~

32 ~~(1) The total number of loans serviced.~~

33 ~~(2) Serviced loans originated and funded by an unaffiliated~~
34 ~~party.~~

35 ~~(3) Serviced loans where the originator or funding party is~~
36 ~~affiliated with the licensee.~~

37 ~~(4) Serviced loans secured by owner-occupied residences.~~

38 ~~(5) Serviced loans for investment or second residence properties.~~

39 ~~(6) Loans serviced or originated that are secured by a first~~
40 ~~mortgage only.~~

- 1 ~~(7) Loans serviced or originated that are secured by a second~~
- 2 ~~mortgage only.~~
- 3 ~~(8) Loans serviced or originated that are secured by both a first~~
- 4 ~~and second mortgage.~~
- 5 ~~(9) Prime loans serviced or originated in the following~~
- 6 ~~categories:~~
- 7 ~~(A) Fixed rate, fully amortizing.~~
- 8 ~~(B) Hybrid adjustable rate mortgages.~~
- 9 ~~(C) Adjustable rate, fully amortizing.~~
- 10 ~~(D) Loans with interest only features.~~
- 11 ~~(E) Payment option adjustable rate mortgages and other loans~~
- 12 ~~with negative amortization features.~~
- 13 ~~(F) Other real property loans that are not subprime loans under~~
- 14 ~~paragraph (10).~~
- 15 ~~(10) Subprime loans serviced or originated in the following~~
- 16 ~~categories:~~
- 17 ~~(A) Fixed rate, fully amortizing.~~
- 18 ~~(B) Hybrid adjustable rate mortgages.~~
- 19 ~~(C) Adjustable rate, fully amortizing.~~
- 20 ~~(D) Loans with interest only features.~~
- 21 ~~(E) Payment option adjustable rate mortgages and other loans~~
- 22 ~~with negative amortization features.~~
- 23 ~~(F) Other real property loans that are not prime loans under~~
- 24 ~~paragraph (9).~~
- 25 ~~(11) The following information for prime loans, subprime loans,~~
- 26 ~~and alternative mortgage loans serviced or originated:~~
- 27 ~~(A) Loans 30 to 59 days past due.~~
- 28 ~~(B) Loans 60 to 89 days past due.~~
- 29 ~~(C) Loans 90 days or more past due.~~
- 30 ~~(D) Loans described in subparagraph (A), (B), or (C) that have~~
- 31 ~~been modified in the last 12 months.~~
- 32 ~~(E) Loans in the process of foreclosure.~~
- 33 ~~(F) Loans where notice of default has been sent.~~
- 34 ~~(G) Loans where formal foreclosure proceedings have been~~
- 35 ~~started.~~
- 36 ~~(H) Loans where foreclosure proceedings have been completed.~~
- 37 ~~(I) Loans that entered delinquency within three payments of an~~
- 38 ~~interest rate increase.~~
- 39 ~~(12) The following loss mitigation efforts that are in process or~~
- 40 ~~are closed relative to mortgage loans serviced or originated:~~

- 1 ~~(A) Deeds in lieu.~~
2 ~~(B) Short sales.~~
3 ~~(C) Forbearances.~~
4 ~~(D) Repayment plans.~~
5 ~~(E) Refinances or paid in full.~~
6 ~~(F) Reinstatement by an account becoming current.~~
7 ~~(G) Modification by principal reduction or by interest rate or~~
8 ~~term of debt modification.~~
9 ~~(13) Whether a prepayment penalty was waived for any loss~~
10 ~~mitigation action under paragraph (12).~~
11 ~~(14) Information on closed loan modifications under paragraph~~
12 ~~(12), including the following:~~
13 ~~(A) The duration of the modification relative to the life of the~~
14 ~~loan.~~
15 ~~(B) The types of modifications closed.~~
16 ~~(C) Modifications by freezing the interest rate at the initial or~~
17 ~~start rate.~~
18 ~~(D) Modifications by reducing the interest rate below the initial~~
19 ~~or start rate.~~
20 ~~(E) Modifications by reducing the interest rate below the~~
21 ~~scheduled adjustable rate increase (reset) but above the initial or~~
22 ~~start rate.~~
23 ~~(F) Modifications with extension of the term of the loan.~~
24 ~~(G) Modifications with reduction in principal balance.~~
25 ~~(H) Modifications using a combination of the methods described~~
26 ~~in this paragraph.~~
27 ~~(I) Any other types of modifications.~~
28 ~~(b) A summation of all reports made to the commissioner~~
29 ~~pursuant to subdivision (a) shall be posted on the department's~~
30 ~~Internet Web site and the full data shall be made available to the~~
31 ~~Legislature upon request.~~
32 ~~(c) A savings association that fails to report under subdivision~~
33 ~~(a) shall be subject to Section 5310.~~
34 ~~SEC. 3. Section 5310 of the Financial Code is amended to read:~~
35 ~~5310. (a) Any person violating or conspiring to violate Sections~~
36 ~~5205.7, 5303, 5304, 5305, or 5306 shall be subject to a civil penalty~~
37 ~~in an amount assessed by the court in a civil action under this~~
38 ~~section.~~

1 ~~(b) The maximum amount of the penalty which may be imposed~~
2 ~~under this section shall be determined in accordance with the~~
3 ~~following:~~

4 ~~(1) Except as provided by paragraphs (2) and (3), the civil~~
5 ~~penalty shall not exceed one million dollars (\$1,000,000).~~

6 ~~(2) In the case of a continuing violation, the amount of the civil~~
7 ~~penalty may exceed the amount described in paragraph (1), but~~
8 ~~may not exceed the lesser of one million dollars (\$1,000,000) for~~
9 ~~each day the violation continues or five million dollars~~
10 ~~(\$5,000,000).~~

11 ~~(3) If any person derives pecuniary gain from the violation, or~~
12 ~~if the violation results in pecuniary loss to a person other than the~~
13 ~~violation, the amount of the civil penalty may exceed the amounts~~
14 ~~described in paragraphs (1) and (2) but may not exceed the amount~~
15 ~~of that gain or loss.~~

16 ~~(e) A civil action to recover a civil penalty under this section~~
17 ~~shall be brought in the name of the people of the State of California~~
18 ~~by the Attorney General, who shall be required to establish the~~
19 ~~right to recovery by a preponderance of the evidence.~~

20 ~~(d) For the purpose of conducting a civil investigation in~~
21 ~~contemplation of proceeding under this section, the Attorney~~
22 ~~General may do all of the following:~~

23 ~~(1) Administer oaths and affirmations.~~

24 ~~(2) Take evidence.~~

25 ~~(3) By subpoena or subpoena duces tecum, summon witnesses~~
26 ~~and require the production of any books, papers, correspondence,~~
27 ~~memoranda, or other records which the Attorney General deems~~
28 ~~relevant or material to the inquiry.~~

29 ~~SEC. 4.~~

30 ~~SEC. 2. Section 14255.5 is added to the Financial Code, to~~
31 ~~read:~~

32 ~~14255.5. (a) Any credit union that services or originates loans~~
33 ~~secured by real property shall file a report with the commissioner~~
34 ~~monthly that contains all of the following and any other information~~
35 ~~concerning loan modifications requested by the commissioner:~~

36 ~~(1) The total number of loans serviced.~~

37 ~~(2) Serviced loans—The total number of nontraditional loans~~
38 ~~serviced that were originated and funded by an unaffiliated party.~~

- 1 ~~(3) Serviced loans~~—*The total number of nontraditional loans*
 2 *serviced where the originator or funding party is affiliated with*
 3 *the licensee.*
- 4 ~~(4) Serviced loans~~—*The total number of nontraditional loans*
 5 *serviced that are secured by owner-occupied residences.*
- 6 ~~(5) Serviced loans~~—*The total number of nontraditional loans*
 7 *serviced that are for investment or second residence properties.*
- 8 ~~(6) Loans serviced or originated~~—*The total number of*
 9 *nontraditional loans serviced that are secured by a first mortgage*
 10 *only.*
- 11 ~~(7) Loans serviced or originated~~—*The total number of*
 12 *nontraditional loans serviced that are secured by a second*
 13 *mortgage only.*
- 14 ~~(8) Loans serviced or originated~~—*The total number of*
 15 *nontraditional loans serviced that are secured by both a first and*
 16 *second mortgage.*
- 17 ~~(9) Prime loans serviced or originated in the following~~
 18 ~~categories:~~
- 19 ~~(9) The total number of subprime loans serviced that were~~
 20 ~~originated and funded by an unaffiliated party.~~
- 21 ~~(10) The total number of subprime loans serviced where the~~
 22 ~~originator or funding party is affiliated with the licensee.~~
- 23 ~~(11) The total number of subprime loans serviced that are~~
 24 ~~secured by owner-occupied residences.~~
- 25 ~~(12) The total number of subprime loans serviced that are for~~
 26 ~~investment or second residence properties.~~
- 27 ~~(13) The total number of subprime loans serviced that are~~
 28 ~~secured by a first mortgage only.~~
- 29 ~~(14) The total number of subprime loans serviced that are~~
 30 ~~secured by a second mortgage only.~~
- 31 ~~(15) The total number of subprime loans serviced that are~~
 32 ~~secured by both a first and second mortgage.~~
- 33 ~~(16) The total number of nontraditional loans serviced in the~~
 34 ~~following categories:~~
- 35 ~~(A) Fixed rate, fully amortizing loans.~~
- 36 ~~(B) Hybrid adjustable rate mortgages mortgage loans.~~
- 37 ~~(C) Adjustable rate, fully amortizing loans.~~
- 38 ~~(D) Loans with interest only features.~~
- 39 ~~(E) Payment option adjustable rate mortgages and other loans~~
 40 ~~with negative amortization features.~~

1 ~~(F) Other real property loans that are not subprime loans under~~
2 ~~paragraph (10):~~

3 ~~(10) Subprime loans serviced or originated in the following~~
4 ~~categories:~~

5 ~~(17) The total number of subprime loans serviced in the~~
6 ~~following categories:~~

- 7 (A) Fixed rate, fully amortizing loans.
- 8 (B) Hybrid adjustable rate ~~mortgages~~ mortgage loans.
- 9 (C) Adjustable rate, fully amortizing loans.
- 10 (D) Loans with interest only features.
- 11 (E) Payment option adjustable rate mortgages and other loans
- 12 with negative amortization features.

13 ~~(F) Other real property loans that are not prime loans under~~
14 ~~paragraph (9):~~

15 ~~(11) The following information for prime loans, subprime loans,~~
16 ~~and alternative mortgage loans serviced or originated:~~

17 ~~(18) The following information for subprime loans and~~
18 ~~nontraditional loans serviced:~~

- 19 ~~(A) Loans~~The total number of loans 30 to 59 days past due.
- 20 ~~(B) Loans~~The total number of loans 60 to 89 days past due.
- 21 ~~(C) Loans~~The total number of loans 90 days or more past due.
- 22 ~~(D) Loans~~The total number of loans described in subparagraph
- 23 (A), (B), or (C) that have been modified in the last 12 months.
- 24 ~~(E) Loans~~The total number of loans in the process of
- 25 foreclosure.
- 26 ~~(F) Loans~~The total number of loans where notice of default has
- 27 been sent.
- 28 ~~(G) Loans~~The total number of loans where formal foreclosure
- 29 proceedings have been started.
- 30 ~~(H) Loans~~The total number of loans where foreclosure
- 31 proceedings have been completed.
- 32 ~~(I) Loans~~The total number of loans that entered delinquency
- 33 within ~~three~~ six payments of an interest rate increase.
- 34 ~~(J) The percentage of loans described in subparagraphs (A) to~~
- 35 ~~(I), inclusive, that are securitized.~~

36 ~~(12)~~

37 ~~(19) The following loss mitigation efforts that are in process or~~
38 ~~are closed relative to mortgage loans serviced or originated:~~

- 39 (A) Deeds in lieu.
- 40 (B) Short sales.

- 1 (C) Forbearances.
- 2 (D) Repayment plans.
- 3 (E) Refinances or paid in full.
- 4 (F) Reinstatement by an account becoming current.
- 5 (G) Modification by principal reduction or by interest rate or
- 6 term of debt modification.
- 7 ~~(13) Whether a prepayment penalty was waived for any loss~~
- 8 ~~mitigation action under paragraph (12):~~
- 9 (H) *The percentage of loans described in subparagraphs (A) to*
- 10 *(G), inclusive, that are securitized.*
- 11 (20) *The number of prepayment penalties waived in connection*
- 12 *with each of the loss mitigation actions under paragraph (19).*
- 13 (21) *The number of prepayment penalties assessed in connection*
- 14 *with each of the loss mitigation actions under paragraph (19).*
- 15 ~~(14)~~
- 16 (22) Information on closed loan modifications under paragraph
- 17 ~~(12)~~ (19), including the following:
- 18 (A) The duration of the modification relative to the life of the
- 19 loan.
- 20 (B) The types of modifications closed.
- 21 (C) Modifications by freezing the interest rate at the initial or
- 22 start rate.
- 23 (D) Modifications by reducing the interest rate below the initial
- 24 or start rate.
- 25 (E) Modifications by reducing the interest rate below the
- 26 scheduled adjustable rate increase (reset) but above the initial or
- 27 start rate.
- 28 (F) Modifications with extension of the term of the loan.
- 29 (G) Modifications with reduction in principal balance.
- 30 (H) Modifications using a combination of the methods described
- 31 in this paragraph.
- 32 (I) Any other types of modifications.
- 33 (J) *The percentage of loans described in subparagraphs (A) to*
- 34 *(I), inclusive, that are securitized.*
- 35 ~~(b) A summation of all~~ *The reports made to the commissioner*
- 36 *pursuant to subdivision (a) shall be posted on the department's*
- 37 ~~Internet Web site and the full data shall be made available to the~~
- 38 ~~Legislature upon request.~~
- 39 ~~(e) A credit union that fails to report under subdivision (a) shall~~
- 40 ~~be subject to Section 14256.~~

1 *Internet Web site on a Servicer-specific basis.*

2 (c) *Nothing in this section shall prevent the commissioner from*
3 *accepting data voluntarily submitted from a federally supervised*
4 *financial institution.*

5 (d) *The data collected under this section shall be for loans*
6 *secured by residential real property.*

7 (e) *For purposes of this section the following definitions shall*
8 *apply:*

9 (1) *“Subprime loan” means a loan where the difference between*
10 *the annual percentage rate for the loan and the yield on Treasury*
11 *securities having comparable periods of maturity is either equal*
12 *to or greater than (A) 3 percentage points if the loan is secured*
13 *by a first lien mortgage or deed of trust, or (B) 5 percentage points*
14 *if the loan is secured by a subordinate lien mortgage or deed of*
15 *trust.*

16 (2) *“Nontraditional loan” or “nontraditional mortgage” means*
17 *any mortgage product that allows the borrower to defer payment*
18 *of principal and, sometimes, interest, as set forth in the*
19 *“Interagency Guidance on Nontraditional Mortgage Product*
20 *Risks” (71 Fed. Reg. 58609 (Oct. 4, 2006)).*

21 (f) *This section shall become inoperative on July 1, 2010, and,*
22 *as of January 1, 2011, is repealed, unless a later enacted statute,*
23 *that becomes operative on or before January 1, 2011, deletes or*
24 *extends the dates on which it becomes inoperative and is repealed.*

25 ~~SEC. 5.~~

26 *SEC. 3.* Section 22159.5 is added to the Financial Code, to
27 read:

28 22159.5. (a) Each licensee shall file a report with the
29 commissioner monthly that contains all of the following and any
30 other information *concerning loan modifications* requested by the
31 commissioner:

32 (1) The total number of loans serviced.

33 (2) ~~Serviced loans~~ *The total number of nontraditional loans*
34 *serviced that were originated and funded by an unaffiliated party.*

35 (3) ~~Serviced loans~~ *The total number of nontraditional loans*
36 *serviced where the originator or funding party is affiliated with*
37 *the licensee.*

38 (4) ~~Serviced loans~~ *The total number of nontraditional loans*
39 *serviced that are secured by owner-occupied residences.*

- 1 ~~(5) Serviced loans~~—*The total number of nontraditional loans*
- 2 *serviced that are for investment or second residence properties.*
- 3 ~~(6) Loans serviced or originated~~—*The total number of*
- 4 *nontraditional loans serviced that are secured by a first mortgage*
- 5 *only.*
- 6 ~~(7) Loans serviced or originated~~—*The total number of*
- 7 *nontraditional loans serviced that are secured by a second*
- 8 *mortgage only.*
- 9 ~~(8) Loans serviced or originated~~—*The total number of*
- 10 *nontraditional loans serviced that are secured by both a first and*
- 11 *second mortgage.*
- 12 ~~(9) Prime loans serviced or originated in the following~~
- 13 ~~categories:~~
- 14 ~~(9) The total number of subprime loans serviced that were~~
- 15 ~~originated and funded by an unaffiliated party.~~
- 16 ~~(10) The total number of subprime loans serviced where the~~
- 17 ~~originator or funding party is affiliated with the licensee.~~
- 18 ~~(11) The total number of subprime loans serviced that are~~
- 19 ~~secured by owner-occupied residences.~~
- 20 ~~(12) The total number of subprime loans serviced that are for~~
- 21 ~~investment or second residence properties.~~
- 22 ~~(13) The total number of subprime loans serviced that are~~
- 23 ~~secured by a first mortgage only.~~
- 24 ~~(14) The total number of subprime loans serviced that are~~
- 25 ~~secured by a second mortgage only.~~
- 26 ~~(15) The total number of subprime loans serviced that are~~
- 27 ~~secured by both a first and second mortgage.~~
- 28 ~~(16) The total number of nontraditional loans serviced in the~~
- 29 ~~following categories:~~
- 30 ~~(A) Fixed rate, fully amortizing loans.~~
- 31 ~~(B) Hybrid adjustable rate mortgages mortgage loans.~~
- 32 ~~(C) Adjustable rate, fully amortizing loans.~~
- 33 ~~(D) Loans with interest only features.~~
- 34 ~~(E) Payment option adjustable rate mortgages and other loans~~
- 35 ~~with negative amortization features.~~
- 36 ~~(F) Other real property loans that are not subprime loans under~~
- 37 ~~paragraph (10).~~
- 38 ~~(10) Subprime loans serviced or originated in the following~~
- 39 ~~categories:~~

- 1 (17) *The total number of subprime loans serviced in the*
2 *following categories:*
- 3 (A) Fixed rate, fully amortizing loans.
 - 4 (B) Hybrid adjustable rate ~~mortgages~~ mortgage loans.
 - 5 (C) Adjustable rate, fully amortizing loans.
 - 6 (D) Loans with interest only features.
 - 7 (E) Payment option adjustable rate mortgages and other loans
 - 8 with negative amortization features.
 - 9 ~~(F) Other real property loans that are not prime loans under~~
 - 10 ~~paragraph (9).~~
- 11 ~~(11) The following information for prime loans, subprime loans,~~
12 ~~and alternative mortgage loans serviced or originated:~~
- 13 (18) *The following information for subprime loans and*
14 *nontraditional loans serviced:*
- 15 ~~(A) Loans~~ *The total number of loans 30 to 59 days past due.*
 - 16 ~~(B) Loans~~ *The total number of loans 60 to 89 days past due.*
 - 17 ~~(C) Loans~~ *The total number of loans 90 days or more past due.*
 - 18 ~~(D) Loans~~ *The total number of loans described in subparagraph*
 - 19 *(A), (B), or (C) that have been modified in the last 12 months.*
 - 20 ~~(E) Loans~~ *The total number of loans in the process of*
 - 21 *foreclosure.*
 - 22 ~~(F) Loans~~ *The total number of loans where notice of default has*
 - 23 *been sent.*
 - 24 ~~(G) Loans~~ *The total number of loans where formal foreclosure*
 - 25 *proceedings have been started.*
 - 26 ~~(H) Loans~~ *The total number of loans where foreclosure*
 - 27 *proceedings have been completed.*
 - 28 ~~(I) Loans~~ *The total number of loans that entered delinquency*
 - 29 *within three six payments of an interest rate increase.*
 - 30 ~~(J) The percentage of loans described in subparagraphs (A) to~~
 - 31 ~~(I), inclusive, that are securitized.~~
 - 32 ~~(12)~~
 - 33 (19) *The following loss mitigation efforts that are in process or*
34 *are closed relative to mortgage loans serviced or originated:*
 - 35 (A) Deeds in lieu.
 - 36 (B) Short sales.
 - 37 (C) Forbearances.
 - 38 (D) Repayment plans.
 - 39 (E) Refinances or paid in full.
 - 40 (F) Reinstatement by an account becoming current.

- 1 (G) Modification by principal reduction or by interest rate or
- 2 term of debt modification.
- 3 ~~(13) Whether a prepayment penalty was waived for any loss~~
- 4 ~~mitigation action under paragraph (12).~~
- 5 (H) *The percentage of loans described in subparagraphs (A) to*
- 6 *(G), inclusive, that are securitized.*
- 7 (20) *The number of prepayment penalties waived in connection*
- 8 *with each of the loss mitigation actions under paragraph (19).*
- 9 (21) *The number of prepayment penalties assessed in connection*
- 10 *with each of the loss mitigation actions under paragraph (19).*
- 11 ~~(14)~~
- 12 (22) Information on closed loan modifications under paragraph
- 13 ~~(12)~~ (19), including the following:
- 14 (A) The duration of the modification relative to the life of the
- 15 loan.
- 16 (B) The types of modifications closed.
- 17 (C) Modifications by freezing the interest rate at the initial or
- 18 start rate.
- 19 (D) Modifications by reducing the interest rate below the initial
- 20 or start rate.
- 21 (E) Modifications by reducing the interest rate below the
- 22 scheduled adjustable rate increase (reset) but above the initial or
- 23 start rate.
- 24 (F) Modifications with extension of the term of the loan.
- 25 (G) Modifications with reduction in principal balance.
- 26 (H) Modifications using a combination of the methods described
- 27 in this paragraph.
- 28 (I) Any other types of modifications.
- 29 (J) *The percentage of loans described in subparagraphs (A) to*
- 30 *(I), inclusive, that are securitized.*
- 31 ~~(b) A summation of all~~ The reports made to the commissioner
- 32 pursuant to subdivision (a) shall be posted on the department's
- 33 Internet Web site and the full data shall be made available to the
- 34 Legislature upon request.
- 35 ~~(e) A licensee that fails to file a report under subdivision (a)~~
- 36 ~~shall be subject to Section 22715.~~
- 37 *Internet Web site servicer-specific basis.*
- 38 (c) *Nothing in this section shall prevent the commissioner from*
- 39 *accepting data voluntarily submitted from a federally supervised*
- 40 *financial institution.*

1 (d) *The data collected under this section shall be for loans*
2 *secured by residential real property.*

3 (e) *For purposes of this section the following definitions shall*
4 *apply:*

5 (1) *“Subprime loan” means a loan where the difference between*
6 *the annual percentage rate for the loan and the yield on Treasury*
7 *securities having comparable periods of maturity is either equal*
8 *to or greater than (A) 3 percentage points if the loan is secured*
9 *by a first lien mortgage or deed of trust, or (B) 5 percentage points*
10 *if the loan is secured by a subordinate lien mortgage or deed of*
11 *trust.*

12 (2) *“Nontraditional loan” or “nontraditional mortgage” means*
13 *any mortgage product that allows the borrower to defer payment*
14 *of principal and, sometimes, interest, as set forth in the*
15 *“Interagency Guidance on Nontraditional Mortgage Product*
16 *Risks” (71 Fed. Reg. 58609 (Oct. 4, 2006)).*

17 (f) *This section shall become inoperative on July 1, 2010, and,*
18 *as of January 1, 2011, is repealed, unless a later enacted statute,*
19 *that becomes operative on or before January 1, 2011, deletes or*
20 *extends the dates on which it becomes inoperative and is repealed.*

21 ~~SEC. 6. Section 22715 of the Financial Code is amended to~~
22 ~~read:~~

23 ~~22715. The commissioner may by order summarily suspend~~
24 ~~or revoke the license of any licensee if that person fails to file the~~
25 ~~report required by Section 22159 or 22159.5 within 10 days after~~
26 ~~notice by the commissioner that the report is due and not filed. If,~~
27 ~~after an order is made, a request for hearing is filed in writing~~
28 ~~within 30 days and the hearing is not held within 60 days thereafter,~~
29 ~~the order is deemed rescinded as of its effective date.~~

30 ~~SEC. 7.~~

31 *SEC. 4. Section 50307.1 is added to the Financial Code, to*
32 *read:*

33 50307.1. (a) Each licensee shall file a report with the
34 commissioner monthly that contains all of the following and any
35 other information *concerning loan modifications* requested by the
36 commissioner:

37 (1) The total number of loans serviced.

38 (2) ~~Serviced loans~~ *The total number of nontraditional loans*
39 *serviced that were originated and funded by an unaffiliated party.*

- 1 ~~(3) Serviced loans~~—*The total number of nontraditional loans*
 2 *serviced where the originator or funding party is affiliated with*
 3 *the licensee.*
- 4 ~~(4) Serviced loans~~—*The total number of nontraditional loans*
 5 *serviced that are secured by owner-occupied residences.*
- 6 ~~(5) Serviced loans~~—*The total number of nontraditional loans*
 7 *serviced that are for investment or second residence properties.*
- 8 ~~(6) Loans serviced or originated~~—*The total number of*
 9 *nontraditional loans serviced that are secured by a first mortgage*
 10 *only.*
- 11 ~~(7) Loans serviced or originated~~—*The total number of*
 12 *nontraditional loans serviced that are secured by a second*
 13 *mortgage only.*
- 14 ~~(8) Loans serviced or originated~~—*The total number of*
 15 *nontraditional loans serviced that are secured by both a first and*
 16 *second mortgage.*
- 17 ~~(9) Prime loans serviced or originated in the following~~
 18 ~~categories:~~
- 19 ~~(9) The total number of subprime loans serviced that were~~
 20 ~~originated and funded by an unaffiliated party.~~
- 21 ~~(10) The total number of subprime loans serviced where the~~
 22 ~~originator or funding party is affiliated with the licensee.~~
- 23 ~~(11) The total number of subprime loans serviced that are~~
 24 ~~secured by owner-occupied residences.~~
- 25 ~~(12) The total number of subprime loans serviced that are for~~
 26 ~~investment or second residence properties.~~
- 27 ~~(13) The total number of subprime loans serviced that are~~
 28 ~~secured by a first mortgage only.~~
- 29 ~~(14) The total number of subprime loans serviced that are~~
 30 ~~secured by a second mortgage only.~~
- 31 ~~(15) The total number of subprime loans serviced that are~~
 32 ~~secured by both a first and second mortgage.~~
- 33 ~~(16) The total number of nontraditional loans serviced in the~~
 34 ~~following categories:~~
- 35 ~~(A) Fixed rate, fully amortizing loans.~~
- 36 ~~(B) Hybrid adjustable rate mortgages mortgage loans.~~
- 37 ~~(C) Adjustable rate, fully amortizing loans.~~
- 38 ~~(D) Loans with interest only features.~~
- 39 ~~(E) Payment option adjustable rate mortgages and other loans~~
 40 ~~with negative amortization features.~~

- 1 ~~(F) Other real property loans that are not subprime loans under~~
2 ~~paragraph (10):~~
- 3 ~~(10) Subprime loans serviced or originated in the following~~
4 ~~categories:~~
- 5 ~~(17) The total number of subprime loans serviced in the~~
6 ~~following categories:~~
- 7 (A) Fixed rate, fully amortizing loans.
8 (B) Hybrid adjustable rate ~~mortgages~~ mortgage loans.
9 (C) Adjustable rate, fully amortizing loans.
10 (D) Loans with interest only features.
11 (E) Payment option adjustable rate mortgages and other loans
12 with negative amortization features.
- 13 ~~(F) Other real property loans that are not prime loans under~~
14 ~~paragraph (9):~~
- 15 ~~(11) The following information for prime loans, subprime loans,~~
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22 ~~(D) Loans~~The total number of loans described in subparagraph
23 (A), (B), or (C) that have been modified in the last 12 months.
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25 foreclosure.
26 ~~(F) Loans~~The total number of loans where notice of default has
27 been sent.
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29 proceedings have been started.
30 ~~(H) Loans~~The total number of loans where foreclosure
31 proceedings have been completed.
32 ~~(I) Loans~~The total number of loans that entered delinquency
33 within ~~three~~ six payments of an interest rate increase.
34 ~~(J) The percentage of loans described in subparagraphs (A) to~~
35 ~~(I), inclusive, that are securitized.~~
- 36 ~~(12)~~
- 37 (19) The following loss mitigation efforts that ~~are in process or~~
38 ~~are closed~~ relative to mortgage loans serviced ~~or originated~~:
39 (A) Deeds in lieu.
40 (B) Short sales.

- 1 (C) Forbearances.
- 2 (D) Repayment plans.
- 3 (E) Refinances or paid in full.
- 4 (F) Reinstatement by an account becoming current.
- 5 (G) Modification by principal reduction or by interest rate or
- 6 term of debt modification.
- 7 ~~(13) Whether a prepayment penalty was waived for any loss~~
- 8 ~~mitigation action under paragraph (12):~~
- 9 (H) *The percentage of loans described in subparagraphs (A) to*
- 10 *(G), inclusive, that are securitized.*
- 11 (20) *The number of prepayment penalties waived in connection*
- 12 *with each of the loss mitigation actions under paragraph (19).*
- 13 (21) *The number of prepayment penalties assessed in connection*
- 14 *with each of the loss mitigation actions under paragraph (19).*
- 15 ~~(14)~~
- 16 (22) Information on closed loan modifications under paragraph
- 17 ~~(12)~~ (19), including the following:
- 18 (A) The duration of the modification relative to the life of the
- 19 loan.
- 20 (B) The types of modifications closed.
- 21 (C) Modifications by freezing the interest rate at the initial or
- 22 start rate.
- 23 (D) Modifications by reducing the interest rate below the initial
- 24 or start rate.
- 25 (E) Modifications by reducing the interest rate below the
- 26 scheduled adjustable rate increase (reset) but above the initial or
- 27 start rate.
- 28 (F) Modifications with extension of the term of the loan.
- 29 (G) Modifications with reduction in principal balance.
- 30 (H) Modifications using a combination of the methods described
- 31 in this paragraph.
- 32 (I) Any other types of modifications.
- 33 (J) *The percentage of loans described in subparagraphs (A) to*
- 34 *(I), inclusive, that are securitized.*
- 35 ~~(b) A summation of all~~ The reports made to the commissioner
- 36 pursuant to subdivision (a) shall be posted on the department's
- 37 Internet Web site and the full data shall be made available to the
- 38 Legislature upon request.

1 ~~(e) A licensee that fails to file a report under subdivision (a)~~
2 ~~shall be subject to subdivision (c) of Section 50307 and Section~~
3 ~~50326.~~

4 *Internet Web site on a servicer-specific basis.*

5 *(c) Nothing in this section shall prevent the commissioner from*
6 *accepting data voluntarily submitted from a federally supervised*
7 *financial institution.*

8 *(d) The data collected under this section shall be for loans*
9 *secured by residential real property.*

10 *(e) For purposes of this section the following definitions shall*
11 *apply:*

12 *(1) “Subprime loan” means a loan where the difference between*
13 *the annual percentage rate for the loan and the yield on Treasury*
14 *securities having comparable periods of maturity is either equal*
15 *to or greater than (A) 3 percentage points if the loan is secured*
16 *by a first lien mortgage or deed of trust, or (B) 5 percentage points*
17 *if the loan is secured by a subordinate lien mortgage or deed of*
18 *trust.*

19 *(2) “Nontraditional loan” or “nontraditional mortgage” means*
20 *any mortgage product that allows the borrower to defer payment*
21 *of principal and, sometimes, interest, as set forth in the*
22 *“Interagency Guidance on Nontraditional Mortgage Product*
23 *Risks” (71 Fed. Reg. 58609 (Oct. 4, 2006)).*

24 *(f) This section shall become inoperative on July 1, 2010, and,*
25 *as of January 1, 2011, is repealed, unless a later enacted statute,*
26 *that becomes operative on or before January 1, 2011, deletes or*
27 *extends the dates on which it becomes inoperative and is repealed.*

28

29

30 **CORRECTIONS:**

31 **Text—Page 3.**

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