

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 786

Introduced by Assembly Member Lieu

February 22, 2007

~~An act to amend Section 50314 of the Financial Code, relating to mortgage lending.~~ *An act to add Section 1239 to the Financial Code, relating to financial institutions.*

LEGISLATIVE COUNSEL'S DIGEST

AB 786, as amended, Lieu. ~~Mortgage lending.~~ *Financial institutions: greenhouse gas emissions.*

Existing law provides for the regulation of banks by the Department of Financial Institutions. Existing law, the California Global Warming Solutions Act of 2006, requires the State Air Resources Board to, by January 1, 2011, adopt greenhouse gas emission limits and emission reduction measures by regulation. Existing law requires the board, in adopting the regulations, to ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to January 1, 2012, receive an appropriate credit.

This bill would require that appropriate credit to also be provided to a commercial bank or investment company that provides reduced rate financing or other financing incentives to assist other entities in reducing their greenhouse gas emissions.

~~Existing law, the California Residential Mortgage Lending Act, provides for licensing and regulation of residential mortgage lenders and residential mortgage loan servicers by the Commissioner of Corporations. Existing law requires licensees to, among other things, keep specified documents and records. In addition, under existing law,~~

~~the business documents and records of a residential mortgage lender or a residential mortgage loan servicer, whether required to be licensed or not, are subject to inspection and examination by the commissioner. Existing law provides for the payment of the cost of that examination and inspection and for the disclosure of the resulting report, as specified.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1 SECTION 1. Section 1239 is added to the Financial Code, to
2 read:

3 1239. A commercial bank, as defined in Section 105, or an
4 investment company, as defined in the Investment Company Act
5 (15 U.S.C. Sec. 80a-1 et seq.), that provides reduced rate financing
6 or other financing incentives to assist other entities in reducing
7 their greenhouse gas emissions, in accordance with the California
8 Global Warming Solutions Act of 2006 (Division 25.5 (commencing
9 with Section 38500) of the Health and Safety Code), may receive
10 an appropriate credit determined by the State Air Resources Board
11 pursuant to paragraph (3) of subdivision (b) of Section 38562 of
12 the Health and Safety Code.

13 SECTION 1. ~~Section 50314 of the Financial Code is amended~~
14 ~~to read:~~

15 50314. (a) ~~A person subject to this division shall keep~~
16 ~~documents and records that will properly enable the commissioner~~
17 ~~to determine whether the residential mortgage lending or residential~~
18 ~~mortgage loan servicing functions performed by that person comply~~
19 ~~with the provisions of this division and with all rules and orders~~
20 ~~made by the commissioner under this division. Upon request of~~
21 ~~the commissioner, residential mortgage lenders and residential~~
22 ~~mortgage loan servicers shall file an authorization for disclosure~~
23 ~~to the commissioner of financial records of the licensed business~~
24 ~~pursuant to Section 7473 of the Government Code.~~

25 (b) ~~The business documents and records of a residential~~
26 ~~mortgage lender or a residential mortgage loan servicer, whether~~
27 ~~required to be licensed under this division or not, are subject to~~
28 ~~inspection and examination by the commissioner at any time~~

1 without prior notice. The provisions of this subdivision shall not
2 apply to persons specified in subdivision (g) of Section 50003.

3 A person subject to this division shall, upon request and within
4 the time specified in the request, allow inspection and copying of
5 any documents and records by the commissioner or his or her
6 authorized representative.

7 (e) The cost of an inspection and examination of a licensee or
8 other person subject to this division shall be paid to the
9 commissioner by the licensee or person examined, and the
10 commissioner may maintain an action for the recovery of these
11 costs in a court of competent jurisdiction. In determining the cost
12 of an inspection or examination, the commissioner may use the
13 estimated average hourly cost, including overhead, for all persons
14 performing inspections or examinations of licensees or other
15 persons subject to this division for the fiscal year.

16 For the purpose of this subdivision only, no person other than a
17 licensee shall be deemed to be a person subject to this division
18 unless and until the person is determined to be a person subject to
19 this division by an administrative hearing in accordance with
20 Chapter 5 (commencing with Section 11500) of Part 1 of Division
21 3 of Title 2 of the Government Code, or by a judicial hearing in a
22 court of competent jurisdiction.

23 (d) Investigation and examination reports prepared by the
24 commissioner's duly designated representatives are not public
25 reports. Those reports may be disclosed to the officers or directors
26 of a licensee that is the subject of the report for the purpose of
27 corrective action by the officers or directors. That disclosure shall
28 not operate as a waiver of the exemption specified in subdivision
29 (d) of Section 6254 of the Government Code.