

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 957

Introduced by Assembly Member Galgiani

February 26, 2009

An act to add Article 1.8 (commencing with Section 1103.20) to Chapter 2 of Title 4 of Part 4 of Division 2 of, *and to repeal Section 1103.21 of*, the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 957, as amended, Galgiani. Residential real estate transfers: title insurance: escrow companies.

Existing law generally regulates the transfer of real property, and imposes specified obligations on a seller of real property. Existing law authorizes a mortgagee or beneficiary under a deed of trust to sell property securing the mortgage or deed of trust at a foreclosure sale under certain circumstances. Existing federal law prohibits a seller of property that will be purchased with the assistance of a federally related mortgage loan from requiring the buyer to purchase insurance from any particular company.

This bill would enact the Buyer's Choice Act, which would prohibit, *until January 1, 2015*, a mortgagee, beneficiary under a deed of trust, or other person who acquired title to residential real property at a foreclosure sale from, as a condition of selling that real property to a buyer, requiring the buyer to purchase title insurance or ~~use~~ escrow services in connection with the sale from a company chosen by the seller. ~~The act would also prohibit such a seller from, without good~~

~~cause, disapproving the use of a title or escrow company chosen by a buyer. A seller who violates these provisions would be liable to the buyer for a specified civil penalty an amount equal to 3 times all charges made for the title insurance or escrow services. The bill would provide that the provisions described above, on and after January 1, 2015, do not apply to the use of escrow services.~~

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

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

1 SECTION 1. Article 1.8 (commencing with Section 1103.20)
2 is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil
3 Code, to read:

4
5 Article 1.8. Buyer’s Choice Act

6
7 1103.20. This article shall be known, and may be cited, as the
8 Buyer’s Choice Act.

9 1103.21. (a) A seller shall not, directly or indirectly, as a
10 condition of selling residential real property to a buyer, require
11 the buyer to purchase title insurance or ~~use~~ escrow services in
12 connection with the sale of that property from a company chosen
13 by the seller.

14 ~~(b) A seller shall not, without good cause, disapprove the use~~
15 ~~of a title or escrow company chosen by a buyer.~~

16 ~~(c) A seller who violates subdivision (a) or (b) shall be liable~~
17 ~~to the buyer for a civil penalty in an amount equal to 6 percent of~~
18 ~~the sales price of the property.~~

19 ~~(d)~~
20 (b) For purposes of this section, “seller” means a mortgagee,
21 beneficiary under a deed of trust, or other person who acquired
22 title to residential real property at a foreclosure sale, including a
23 trustee, agent, officer, or other employee of any such mortgagee,
24 beneficiary, or other person.

25 (c) *A seller who violates this section shall be liable in an amount*
26 *equal to three times all charges made for the title insurance or*
27 *escrow service. In addition, any person who violates this section*
28 *shall be deemed to have violated his or her license law and shall*
29 *be subject to discipline by his or her licensing entity.*

1 (d) A transaction subject to this section shall not be invalidated
2 solely because of the failure of any person to comply with any
3 provision of this act.

4 (e) This section shall remain in effect only until January 1, 2015,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2015, deletes or extends that date.

7 1103.21. (a) A seller shall not, directly or indirectly, as a
8 condition of selling residential real property to a buyer, require
9 the buyer to purchase title insurance in connection with the sale
10 of that property from a company chosen by the seller.

11 (b) For purposes of this section, "seller" means a mortgagee,
12 beneficiary under a deed of trust, or other person who acquired
13 title to residential real property at a foreclosure sale, including a
14 trustee, agent, officer, or other employee of any such mortgagee,
15 beneficiary, or other person.

16 (c) A seller who violates this section shall be liable in an amount
17 equal to three times all charges made for the title insurance. In
18 addition, any person who violates this section shall be deemed to
19 have violated his or her license law and shall be subject to
20 discipline by his or her licensing entity.

21 (d) A transaction subject to this section shall not be invalidated
22 solely because of the failure of any person to comply with any
23 provision of this act.

24 (e) This section shall become operative January 1, 2015.