

**Introduced by Senator Ducheny**February 2, 2010

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An act to add Section 580e to the Code of Civil Procedure, relating to mortgages.

## LEGISLATIVE COUNSEL'S DIGEST

SB 931, as introduced, Ducheny. Mortgages: deficiency judgments.

Existing law authorizes an action for a deficiency judgment for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, as specified. Existing law prohibits a deficiency judgment in any case in which the real property or an estate for years therein has been sold by the mortgagee or trustee under power of sale contained in the mortgage or deed of trust.

This bill would prohibit a deficiency judgment under a note secured by a first deed of trust or first mortgage in any case in which the trustor or mortgagor sells the dwelling for less than the remaining amount of the indebtedness due at the time of sale with the written consent of the holder of the first deed of trust or first mortgage. The bill would provide, with the written consent of the holder of the first deed of trust or first mortgage to that sale, the holder of the first deed of trust or first mortgage shall be deemed to accept the sale proceeds as full payment, and the remaining amount of the indebtedness on the first deed of trust or first mortgage shall be fully discharged.

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. Section 580e is added to the Code of Civil  
2 Procedure, to read:  
3 580e. No judgment shall be rendered for any deficiency under  
4 a note secured by a first deed of trust or first mortgage in any case  
5 in which the trustor or mortgagor sells the dwelling for less than  
6 the remaining amount of the indebtedness due at the time of sale  
7 with the written consent of the holder of the first deed of trust or  
8 first mortgage. With the written consent of the holder of the first  
9 deed of trust or first mortgage to that sale, the holder of the first  
10 deed of trust or first mortgage shall be deemed to accept the sale  
11 proceeds as full payment, and the remaining amount of the  
12 indebtedness on the first deed of trust or first mortgage shall be  
13 fully discharged.

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