

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1223

Introduced by Senator Calderon

February 18, 2010

An act to add Section 17412 to the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

SB 1223, as amended, Calderon. Escrow agents: auctions.

Existing law, the Escrow Law, provides for the licensure and regulation by the Commissioner of Corporations of persons engaged in business as escrow agents, unless specifically exempted. A willful violation of the Escrow Law constitutes a crime.

This bill would require an escrow agent to return or cause to be returned all deposits and fees received from a bidder in connection with an auction sale of real property *that has been the subject of a foreclosure sale*, upon receipt of escrow instructions from the auctioneer or auction company directing the return of all funds placed on deposit by the bidder with that agent, *except* as specified. Because a willful violation of that provision would constitute a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 17412 is added to the Financial Code, to
2 read:

3 17412. (a) An escrow agent shall return or cause to be returned
4 all deposits and fees received from a bidder in connection with an
5 auction sale of real property *that has been the subject of a*
6 *foreclosure sale*, upon receipt of escrow instructions from the
7 auctioneer or auction company directing the return of all funds
8 placed on deposit by the bidder with that agent. An escrow agent
9 may recognize an auctioneer or auction company as the agent of
10 the property seller for this purpose.

11 (b) *This section shall not apply to any of the following:*

12 (1) *A sale of real property pursuant to a nonjudicial foreclosure*
13 *governed by Article 1 (commencing with Section 2920) of Chapter*
14 *2 of Title 14 of Part 4 of Division 3 of the Civil Code.*

15 (2) *A sale of real property pursuant to a judicial foreclosure*
16 *governed by Article 6 (commencing with Section 701.510) of*
17 *Chapter 3 of Division 2 of Title 9 of Part 2 of the Code of Civil*
18 *Procedure.*

19 (3) *A sale conducted pursuant to Section 9604 of the*
20 *Commercial Code, if an obligation secured by a security interest*
21 *in personal property or fixtures is also secured by an interest or*
22 *an estate in real property.*

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.