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**Introduced by Senator Corbett**

February 16, 2011

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An act to amend Section 580b of the Code of Civil Procedure, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 458, as introduced, Corbett. Mortgages: deficiency judgments.

Existing law prohibits a deficiency judgment upon a sale of real property or an estate for years for failure of the purchaser to complete the contract of sale or satisfy the obligation underlying a mortgage or trust deed given to secure payment in specific circumstances, including if the loan was on a dwelling, as specified, and the loan was, in fact, used to pay all or part of the purchase price of the dwelling.

This bill would provide that a loan used to pay all or part of the purchase price of real property or an estate for years includes a subsequent loan, mortgage, or deed of trust that refinances or modifies the original loan, but only to the extent that the subsequent loan, mortgage, or deed of trust was acquisition indebtedness, as defined.

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 580b of the Code of Civil Procedure is
- 2 amended to read:
- 3 580b. No deficiency judgment shall lie in any event after a sale
- 4 of real property or an estate for years therein for failure of the
- 5 purchaser to complete his or her contract of sale, or under a deed
- 6 of trust or mortgage given to the vendor to secure payment of the

1 balance of the purchase price of that real property or estate for  
2 years therein, or under a deed of trust or mortgage on a dwelling  
3 for not more than four families given to a lender to secure  
4 repayment of a loan which was in fact used to pay all or part of  
5 the purchase price of that dwelling occupied, entirely or in part,  
6 by the purchaser.

7 Where both a chattel mortgage and a deed of trust or mortgage  
8 have been given to secure payment of the balance of the combined  
9 purchase price of both real and personal property, no deficiency  
10 judgment shall lie at any time under any one thereof if no  
11 deficiency judgment would lie under the deed of trust or mortgage  
12 on the real property or estate for years therein.

13 *For purposes of this section, a loan used to pay all or part of*  
14 *the purchase price of real property or an estate for years shall*  
15 *include any subsequent loan, mortgage, or deed of trust that*  
16 *refinances or modifies the original loan, but only to the extent that*  
17 *the subsequent loan, mortgage, or deed of trust is acquisition*  
18 *indebtedness as defined in Section 163(h)(3)(B) of Title 26 of the*  
19 *United States Code.*