

Senate Bill No. 1069

Passed the Senate May 29, 2012

Secretary of the Senate

Passed the Assembly June 25, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, Corbett. Deficiency judgments.

Existing law provides that no deficiency judgment shall lie following a judicial foreclosure with respect to, among other things, a deed of trust or mortgage given to the vendor to secure payment of the balance of the purchase price of real property, or under a deed of trust or mortgage on a dwelling to secure repayment of a purchase money loan which was in fact used to pay all or part of the purchase price of that dwelling.

This bill would additionally provide that no deficiency judgment shall lie in any event on any loan, refinance, or other credit transaction that is used to refinance a purchase money loan, as defined, or subsequent refinances of a purchase money loan, except to the extent that the lender or creditor advances new principal which is not applied to any obligation owed or to be owed under the purchase money loan, or to fees, costs, or related expenses of the refinance. The bill would provide, for purposes of these provisions, that any payment of principal for a refinanced purchase money loan would be deemed to be applied first to the principal balance of the purchase money loan, and then to the remaining principal balance, as specified. The bill's provisions would apply to a loan, refinance, or other credit transaction used to refinance a purchase money loan which is executed on or after January 1, 2013.

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

SECTION 1. Section 580b of the Code of Civil Procedure is amended to read:

580b. (a) No deficiency judgment shall lie in any event for the following:

(1) After a sale of real property or an estate for years therein for failure of the purchaser to complete his or her contract of sale.

(2) Under a deed of trust or mortgage given to the vendor to secure payment of the balance of the purchase price of that real property or estate for years therein.

(3) Under a deed of trust or mortgage on a dwelling for not more than four families given to a lender to secure repayment of a loan which was in fact used to pay all or part of the purchase price of that dwelling, occupied entirely or in part by the purchaser.

(b) For purposes of subdivision (c), a loan described in paragraph (3) of subdivision (a) is a “purchase money loan.”

(c) No deficiency judgment shall lie in any event on any loan, refinance, or other credit transaction (collectively, a “credit transaction”) which is used to refinance a purchase money loan, or subsequent refinances of a purchase money loan, except to the extent that in a credit transaction, the lender or creditor advances new principal (hereafter “new advance”) which is not applied to any obligation owed or to be owed under the purchase money loan, or to fees, costs, or related expenses of the credit transaction. Any new credit transaction shall be deemed to be a purchase money loan except as to the principal amount of any new advance. For purposes of this section, any payment of principal shall be deemed to be applied first to the principal balance of the purchase money loan, and then to the principal balance of any new advance, and interest payments shall be applied to any interest due and owing. The provisions of this subdivision shall only apply to credit transactions that are executed on or after January 1, 2013.

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

Approved _____, 2012

Governor