

Assembly Bill No. 1770

CHAPTER 206

An act to add and repeal Section 2943.1 of the Civil Code, relating to real property.

[Approved by Governor August 15, 2014. Filed with Secretary of State August 15, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1770, Dababneh. Real property liens: equity lines of credit: suspend and close.

Under existing law, within 30 days after a mortgage has been satisfied, the mortgagee or the assignee of the mortgagee is required to execute a certificate of the discharge of the mortgage, as specified, and to deliver, upon the request of the mortgagor or another authorized person, the original note and mortgage to the person making the request.

Existing law requires a creditor to make certain disclosures to a consumer applying for a home equity loan, as defined. Existing federal law relating to lending practices specifies certain circumstances under which a lender may reduce or terminate an existing home equity line of credit.

This bill would, on and after July 1, 2015, and until July 1, 2019, require a lender, upon receipt of a specified written request from a borrower and a specified payment, to close a borrower's equity line of credit, as defined, and to release or reconvey the property secured by the equity line of credit, as specified. The bill would prescribe the contents of the written request.

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

SECTION 1. Section 2943.1 is added to the Civil Code, to read:

2943.1. (a) For purposes of this section, the following definitions apply:

- (1) "Beneficiary" has the same meaning as defined in Section 2943.
- (2) "Borrower's Instruction to Suspend and Close Equity Line of Credit" means the instruction described in subdivision (c), signed by the borrower or borrowers under an equity line of credit.
- (3) "Entitled person" has the same meaning as defined in Section 2943.
- (4) "Equity line of credit" means a revolving line of credit used for consumer purposes, which is secured by a mortgage or deed of trust encumbering residential real property consisting of one to four dwelling units, at least one of which is occupied by the borrower.
- (5) "Payoff demand statement" has the same meaning as defined in Section 2943.

(6) "Suspend" means to prohibit the borrower from drawing on, increasing, or incurring any additional principal debt on the equity line of credit.

(b) Notwithstanding paragraph (5) of subdivision (a) of Section 2943, a payoff demand statement issued by a beneficiary in connection with an equity line of credit shall include an email address, fax number, or mailing address designated by the beneficiary for delivery of the Borrower's Instruction to Suspend and Close Equity Line of Credit by the entitled person.

(c) Upon receipt from an entitled person of a Borrower's Instruction to Suspend and Close Equity Line of Credit, that has been prepared and presented to the borrower by the entitled person and signed by a borrower, a beneficiary shall suspend the equity line of credit for a minimum of 30 days. A Borrower's Instruction to Suspend and Close Equity Line of Credit shall be effective if made substantially in the following form and signed by the borrower:

"Borrower's Instruction to Suspend and Close
Equity Line of Credit

Lender: [Name of Lender]

Borrower(s): [Name of Borrower(s)]

Account Number of the Equity Line of Credit: [Account Number]

Encumbered Property Address: [Property Address]

Escrow or Settlement Agent: [Name of Agent]:

In connection with a sale or refinance of the above-referenced property, my Escrow or Settlement Agent has requested a payoff demand statement for the above-described equity line of credit. I understand my ability to use this equity line of credit has been suspended for at least 30 days to accommodate this pending transaction. I understand that I cannot use any credit cards, debit cards, or checks associated with this equity line of credit while it is suspended and all amounts will be due and payable upon close of escrow. I also understand that when payment is made in accordance with the payoff demand statement, my equity line of credit will be closed. If any amounts remain due after the payment is made, I understand I will remain personally liable for those amounts even if the equity line of credit has been closed and the property released.

This is my written authorization and instruction that you are to close my equity line of credit and cause the secured lien against this property to be released when you are in receipt of both this instruction and payment in accordance with your payoff demand statement.

(Date)

(Signature of Each Borrower)''

(d) When a beneficiary is in receipt of both a Borrower's Instruction to Suspend and Close Equity Line of Credit and payment in accordance with the payoff demand statement as set forth in Section 2943, the beneficiary shall do all of the following:

- (1) Close the equity line of credit.
- (2) Release or reconvey the property securing the equity line of credit, as provided by this chapter.

(e) The beneficiary may conclusively rely on the Borrower's Instruction to Suspend and Close Equity Line of Credit provided by the entitled person as coming from the borrower.

- (f) (1) This section shall become operative on July 1, 2015.
- (2) This section shall remain in effect only until July 1, 2019, and as of that date is repealed.