

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 426**

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**Introduced by Senator Corbett**

February 21, 2013

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An act to amend Sections 580b and ~~580e~~ 580d of the Code of Civil Procedure, relating to deficiency judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 426, as amended, Corbett. Civil procedure: deficiency judgments.

Existing law provides that no deficiency judgment shall lie following a judicial foreclosure with respect to certain enumerated circumstances, including, among others, 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. Existing law prohibits a judgment to be rendered for a deficiency on a note secured by a deed of trust or mortgage on real property or an estate for years therein, as specified.

This bill would prohibit a deficiency from being owed or collected following a judicial foreclosure with respect to the enumerated circumstances. The bill also would prohibit a deficiency from being owed or collected for a deficiency on a note secured by a deed of trust or mortgage on real property or an estate for years therein, as specified, and would make nonsubstantive changes to these provisions.

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:

1 580b. (a) No deficiency shall be owed or collected, and no  
2 deficiency judgment shall lie, for any of the following:

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

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

8 (3) Under a deed of trust or mortgage on a dwelling for not more  
9 than four families given to a lender to secure repayment of a loan  
10 that was used to pay all or part of the purchase price of that  
11 dwelling, occupied entirely or in part by the purchaser. For  
12 purposes of subdivision (b), a loan described in this paragraph is  
13 a “purchase money loan.”

14 (b) No deficiency *shall be owed or collected, and no deficiency*  
15 *judgment shall lie, on a loan, refinance, or other credit transaction*  
16 *(collectively, a “credit transaction”)* that is used to refinance a  
17 purchase money loan, or subsequent refinances of a purchase  
18 money loan, except to the extent that in a credit transaction the  
19 lender or creditor advances new principal (hereafter “new  
20 advance”) that is not applied to an obligation owed or to be owed  
21 under the purchase money loan, or to fees, costs, or related  
22 expenses of the credit transaction. A new credit transaction shall  
23 be deemed to be a purchase money loan except as to the principal  
24 amount of a new advance. For purposes of this section, any  
25 payment of principal shall be deemed to be applied first to the  
26 principal balance of the purchase money loan, and then to the  
27 principal balance of a new advance, and interest payments shall  
28 be applied to any interest due and owing. This subdivision applies  
29 only to credit transactions that are executed on or after January 1,  
30 2013.

31 (c) When both a chattel mortgage and a deed of trust or mortgage  
32 have been given to secure payment of the balance of the combined  
33 purchase price of both real and personal property, no deficiency  
34 judgment shall lie under any one thereof if no deficiency judgment  
35 would lie under the deed of trust or mortgage on the real property  
36 or estate for years therein.

37 SEC. 2. Section 580d of the Code of Civil Procedure is  
38 amended to read:

39 580d. (a) No deficiency shall be owed or collected, and no  
40 deficiency judgment shall be rendered for a deficiency on a note

1 secured by a deed of trust or mortgage on real property or an estate  
2 for years therein executed in any case in which the real property  
3 or estate for years therein has been sold by the mortgagee or trustee  
4 under power of sale contained in the mortgage or deed of trust.

5 (b) This section does not apply to a deed of trust, mortgage, or  
6 other lien given to secure the payment of bonds or other evidences  
7 of indebtedness authorized or permitted to be issued by the  
8 Commissioner of Corporations, or which is made by a public utility  
9 subject to the Public Utilities Act (Part 1 (commencing with Section  
10 201) of Division 1 of the Public Utilities Code).

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