

Assembly Bill No. 442

Passed the Assembly July 24, 1997

Chief Clerk of the Assembly

Passed the Senate July 18, 1997

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 10240 of the Business and Professions Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

AB 442, Gallegos. Real estate loans.

The Real Estate Law requires a real estate broker who negotiates a loan to be secured by real property to deliver to the borrower a statement in writing containing certain information about the terms and costs of the loan, as specified.

This bill would provide that these requirements may be satisfied in the case of a federally regulated residential mortgage loan if the borrower receives a “good faith estimate” pursuant to the federal Real Estate Settlement Procedures Act, all applicable disclosures required by the federal Truth in Lending Act, and a disclosure with respect to loans with balloon payment provisions, as specified.

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

SECTION 1. Section 10240 of the Business and Professions Code is amended to read:

10240. (a) Every real estate broker, upon acting within the meaning of subdivision (d) of Section 10131, who negotiates a loan to be secured directly or collaterally by a lien on real property shall, within three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower a statement in writing, containing all the information required by Section 10241. It shall be personally signed by the borrower and by the real estate broker negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan. When so executed, an exact copy thereof shall be delivered to the borrower at the time of its execution. The real estate



broker negotiating the loan shall retain on file for a period of three years a true and correct copy of the statement as signed by the borrower.

No real estate licensee shall permit the statement to be signed by a borrower if any information required by Section 10241 is omitted.

(b) For the purposes of applying the provisions of this article, a real estate broker is acting within the meaning of subdivision (d) of Section 10131 if he or she solicits borrowers, or causes borrowers to be solicited, through express or implied representations that the broker will act as an agent in arranging a loan, but in fact makes the loan to the borrower from funds belonging to the broker.

(c) In a federally regulated residential mortgage loan transaction in which the principal loan amount exceeds the principal loan levels set forth in Section 10245, a real estate broker satisfies the requirements of this section if the borrower receives (1) a “good faith estimate” that satisfies the requirements of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A. 2601 et seq.), and that sets forth the broker’s real estate license number and a clear and conspicuous statement on the face of the document stating that the “good faith estimate” does not constitute a loan commitment, (2) all applicable disclosures required by the Truth in Lending Act (15 U.S.C.A. 1601 et seq.), and (3) if the loan contains a balloon payment provision, the disclosure described in subdivision (h) of Section 10241, the balloon disclosure required for that loan by Fannie Mae or Freddie Mac, or an alternative disclosure determined by the commissioner to satisfy the requirements of the Truth in Lending Act.



Approved _____, 1997

Governor

