

AMENDED IN ASSEMBLY JANUARY 7, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1203

Introduced by Assembly Member Kuykendall

February 28, 1997

~~An act to amend Sections 50124, 50302, 50306, and 50401 of the Financial Code, relating to financial institutions. An act to amend Section 10234 of the Business and Professions Code, relating to real estate.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1203, as amended, Kuykendall. ~~Finance:—mortgage lending—Real estate.~~

The Real Estate Law requires every real estate licensee who negotiates a loan secured by a trust deed on real property to cause that trust deed to be recorded, naming as beneficiary the lender or the lender's nominee, prior to the time that funds are disbursed on the loan, as specified. Existing law also requires a real estate licensee who sells, exchanges, or negotiates the sale or exchange of a real property sales contract or a promissory note secured by a trust deed on real property to cause a proper assignment of the contract or trust deed to be executed and recorded, naming as assignee the purchaser or the purchaser's nominee, as specified.

This bill would provide that these requirements do not apply if the lenders or purchasers are certain governmental or financial institutions or other specified persons or entities,

provided the loan proceeds are intended to be primarily used for agricultural, business, or commercial purposes.

~~(1) Existing law provides for the regulation of persons engaged in the business of making or servicing residential mortgage loans under the authority of the Commissioner of Corporations. Existing law requires the license application to contain an agreement to maintain business records for 60 months.~~

~~This bill would require those records to be maintained for 37 months.~~

~~(2) Existing law requires the commissioner to examine the affairs of each licensee at least once every 24 months.~~

~~This bill would require that examination at least once every 36 months. It would also revise provisions permitting cooperation with, and the use of examinations by, federal or state regulators, as specified.~~

~~(3) Existing law provides for the imposition of a fine for a licensee that opens a branch office or changes its location without approval of the commissioner.~~

~~This bill would require notification of the commissioner rather than approval of the commissioner.~~

~~(4) Existing law provides for an assessment of licensees to pay the costs of regulation.~~

~~This bill would revise provisions relating to an assessment, and would limit the statutory maximum increase to 10% per year, unless specifically approved by the Legislature as part of the Budget Act.~~

Vote: majority. Appropriation: no. Fiscal committee: yes *no*. State-mandated local program: no.

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

- 1 ~~SECTION 1. — Section 50124 of the Financial Code is~~
- 2 ~~SECTION 1. Section 10234 of the Business and~~
- 3 ~~Professions Code is amended to read:~~
- 4 10234. Every real estate licensee who negotiates a
- 5 loan secured by a trust deed on real property shall cause
- 6 such trust deed to be recorded, naming as beneficiary the
- 7 lender or his *or her* nominee (who shall not be the
- 8 licensee or the licensee’s nominee), with the county



1 recorder of the county in which the real property is
2 located prior to the time that any funds are disbursed,
3 except when the lender has given written authorization
4 for prior release.

5 If funds are released on the lender's written
6 authorization, the trust deed shall be recorded, or
7 delivered to the lender or beneficiary with a written
8 recommendation that it be recorded forthwith, within
9 ~~ten (10)~~ 10 days following release.

10 Every real estate licensee who sells, exchanges, or
11 negotiates the sale or exchange of a real property sales
12 contract or a promissory note secured by a trust deed on
13 real property shall cause a proper assignment of such real
14 property sales contract or trust deed to be executed and
15 shall cause such assignment to be recorded, naming as
16 assignee the purchaser or his *or her* nominee (who shall
17 not be the licensee or the licensee's nominee), with the
18 county recorder of the county in which the real property
19 is located within ~~ten (10)~~ 10 working days after the
20 licensee or seller receives any funds from the buyer or
21 after close of escrow; or shall deliver such real property
22 sales contract or trust deed to the purchaser with a
23 written recommendation that the assignment thereof be
24 recorded forthwith.

25 *This section does not apply if (a) the lender or*
26 *purchaser is any person or entity set forth in paragraph*
27 *(1) of subdivision (c) of Section 10232, and (b) the loan*
28 *proceeds are intended to be primarily used for*
29 *agricultural, business, or commercial purposes.*

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 28, 1997 (JR 11)**

