

**ASSEMBLY BILL**

**No. 2403**

---

---

**Introduced by Assembly Member Maddox**

February 24, 2000

---

---

An act to amend Section 50401 of the Financial Code, relating to residential mortgage lending.

LEGISLATIVE COUNSEL'S DIGEST

AB 2403, as introduced, Maddox. Residential mortgage lending.

Existing law, the California Residential Mortgage Lending Act, sets annual assessments to be paid to the commissioner by licensees based on a pro rata share of total administrative costs to operate the program and a percentage of the income of each licensee.

This bill would remove obsolete portions of this provision.

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 50401 of the Financial Code is  
2 amended to read:  
3 50401. (a) In addition to other fees and  
4 reimbursements required to be paid under this division,  
5 each licensee shall pay to the commissioner an amount  
6 equal to the greater of: (1) its pro rata share of all costs  
7 and expenses (including routine regulatory  
8 examinations, overhead, and the maintenance of a

1 prudent reserve of at least 90 days' costs and expenses)  
2 that the commissioner reasonably expects to incur in the  
3 next fiscal year in the administration of this division and  
4 not otherwise recovered by the commissioner under this  
5 division or from the State Corporations Fund, plus a  
6 deficit or less a surplus actually incurred during the  
7 current fiscal year; or (2) five thousand dollars (\$5,000).  
8 The pro rata share shall be the sum of: (A) a number  
9 derived from the ratio of the aggregate principal amount  
10 of the mortgage loans secured by residential real  
11 property originated by the licensee to all mortgage loans  
12 secured by residential real property originated by all  
13 licensees under this division, as shown by the annual  
14 financial reports to the commissioner, which number is  
15 then multiplied by one-half of the costs and expenses  
16 estimated by the commissioner for the next fiscal year;  
17 plus (B) a number derived from the ratio of the average  
18 value of mortgage loans secured by residential real  
19 property serviced by a licensee to the average value of all  
20 mortgage loans secured by residential real property  
21 serviced by all licensees under this division, as shown by  
22 the annual financial reports to the commissioner, which  
23 number is then multiplied by one-half of the costs and  
24 expenses estimated by the commissioner for the next  
25 fiscal year. For the purposes of this section, the "principal  
26 amount" of a mortgage loan means the initial total  
27 amount a borrower is obligated to repay the lender and  
28 the "average value" of loans serviced means the sum of  
29 the aggregate dollar value of all mortgage loans secured  
30 by residential real property serviced by a licensee,  
31 calculated as of the last day of each month in the calendar  
32 year just ended, divided by 12.  
33 In order for the commissioner to calculate the  
34 assessment under this section, each licensee shall file an  
35 annual report for the calendar year just ended containing  
36 the information required by the commissioner on or  
37 before March 1 of the year in which the assessment is to  
38 be calculated.  
39 The assessment shall be fixed by the commissioner by  
40 notice to all licensees on or before May 30 of each year;



1 ~~commencing with the assessment for the 1996-97 fiscal~~  
2 ~~year.~~

3 In determining the amount assessed, the commissioner  
4 shall consider all appropriations from the State  
5 Corporations Fund for the support of this division and all  
6 reimbursements provided for under this division.

7 ~~The maximum assessment of a licensee for each budget~~  
8 ~~year beginning with the 1995-96 budget year and ending~~  
9 ~~with the conclusion of the 1999-2000 budget year shall be~~  
10 ~~one hundred thousand dollars (\$100,000). However, the~~  
11 ~~maximum assessment of a licensee may be increased by~~  
12 ~~five percent each budget year subsequent to the 1995-96~~  
13 ~~budget year. Any amount in excess of the maximum~~  
14 ~~assessment authorized by this section shall be~~  
15 ~~immediately assessed pro rata on those licensees whose~~  
16 ~~assessments are less than the maximum assessment~~  
17 ~~amount.~~

18 (b) In no case shall the reimbursement, payment, or  
19 other fee authorized by this section exceed the cost,  
20 including overhead, reasonably incurred in the  
21 administration of this division, and the maintenance of a  
22 prudent reserve of 90 days' costs and expenses.

23 (c) ~~Notwithstanding subdivisions (a) and (b), the~~  
24 ~~commissioner is authorized to levy a special assessment~~  
25 ~~for the period of July 1, 1995, through June 30, 1996, to pay~~  
26 ~~the costs and expenses, including overhead, and to~~  
27 ~~provide a prudent reserve of 90 days' costs and expenses;~~  
28 ~~reasonably estimated by the commissioner to be incurred~~  
29 ~~during the period of July 1, 1995, through June 30, 1996,~~  
30 ~~as follows:~~

31 (1) ~~The special assessment shall be calculated~~  
32 ~~pursuant to the provisions of subdivision (a) of this~~  
33 ~~section, based on the information filed by the licensee~~  
34 ~~with the notice of intent to file an application described~~  
35 ~~below.~~

36 (2) ~~An applicant filing an application for licensure as~~  
37 ~~a residential mortgage lender or for licensure as a~~  
38 ~~residential mortgage loan servicer during the month of~~  
39 ~~September 1995 shall have paid the application filing fee~~  
40 ~~required by subdivision (e) of Section 50121 in the case~~



1 of a residential mortgage lender, or the application filing  
2 fee required by paragraph (2) of subdivision (b) of  
3 Section 50130 in the case of a residential mortgage loan  
4 servicer at the time of filing the application, and shall  
5 have paid the special assessment calculated under this  
6 subdivision at the time the application is filed. These  
7 moneys shall be deposited into the State Corporations  
8 Fund. If the commissioner denies an application for  
9 licensure filed during the month of September 1995, the  
10 applicant is entitled to receive a ratable return on a  
11 monthly basis of the special assessment paid,  
12 commencing with the month after the month in which  
13 the application was denied. The commissioner shall pay  
14 the ratable return of the special assessment on the first  
15 business day of the next fiscal year.

16 An applicant who files a notice of intention to file an  
17 application for licensure as a residential mortgage lender  
18 or residential mortgage loan servicer, or filing an  
19 application for licensure as a residential mortgage lender  
20 or residential mortgage loan servicer, after September 30,  
21 1995, and on or before June 30, 1996, shall comply with the  
22 provisions of paragraph (1), and shall be subject to the  
23 provisions of paragraph (2), of subdivision (c) of this  
24 section. However, an application for licensure as a  
25 residential mortgage lender or residential mortgage loan  
26 servicer filed after September 30, 1995, and on or before  
27 June 30, 1996, shall be processed on a first-filed,  
28 first-processed basis after all applications filed during the  
29 month of September 1995 have been processed.

30 A residential mortgage loan servicer shall not file an  
31 application for licensure during the month of September  
32 1995, unless the residential mortgage loan servicer files  
33 with the Commissioner of Corporations, on or before  
34 March 1, 1995, a notice of intention to file an application  
35 as a residential mortgage servicer, accompanied by the  
36 application filing fee, and an annual unaudited financial  
37 report for calendar year 1994 meeting the requirements  
38 of Section 50401.

39 (d) Commencing in 1996, on or before the 30th day  
40 of May in each year, the commissioner shall notify each



1 licensee by mail of the amount assessed and levied against  
2 it and that amount shall be paid within 20 days. If  
3 payment is not made within 20 days, the commissioner  
4 shall assess and collect a penalty, in addition to the  
5 assessment of 1 percent of the assessment for each month  
6 or part of a month that the payment is delayed or  
7 withheld.

8 ~~(e)~~

9 (d) If a licensee fails to pay the assessment on or before  
10 the 30th day of June following the day upon which  
11 payment is due, the commissioner may by order  
12 summarily suspend or revoke the license issued to the  
13 licensee. An order issued under this section is not stayed  
14 by the filing of a request for a hearing. If, after an order  
15 is made, the request for hearing is filed in writing within  
16 15 days from the date of service of the order and a hearing  
17 is not held within 60 days of the filing, the order is deemed  
18 rescinded as of its effective date. During a period when  
19 its license is revoked or suspended, a licensee shall not  
20 conduct business pursuant to this division except as may  
21 be permitted by further order of the commissioner.  
22 However, the revocation, suspension, or surrender of a  
23 license shall not affect the powers of the commissioner as  
24 provided in this division.

