

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1538

Introduced by ~~Committee on Banking and Finance (Lieu (Chair), Coto, Mendoza, Parra, Swanson, Torrico, and Wolk)~~ Assembly Member *Lieu*

February 23, 2007

~~An act to add Section 10149.5 to the Business and Professions Code, and to add Sections 22169 and 50007 to the Financial Code, relating to real estate. An act to amend Section 50841 of the Health and Safety Code, relating to home loans.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1538, as amended, ~~Committee on Banking and Finance~~ *Lieu*. ~~Real estate: investigations. Housing Trust Fund: home loan refinance assistance.~~

Existing law creates the California Housing Trust Fund for deposit of certain bond proceeds and other revenues, and provides that the money in the fund is to be used for housing programs, as specified.

This bill would allow the California Housing Finance Agency to accept donations into the California Housing Trust Fund from public or private sources for the purpose of assisting homeowners to refinance home loans with variable interest rates, under specified circumstances, into stable, fixed rate loan products.

~~Under existing law, the Real Estate Law, a real estate licensee is licensed and regulated by the Department of Real Estate in the Business, Transportation and Housing Agency. Under the Finance Lenders Law, finance lenders are regulated by the Department of Corporations, and~~

~~under the California Residential Mortgage Lending Act, residential mortgage lenders are regulated by the Department of Corporations.~~

~~This bill would require the Department of Real Estate to notify the Department of Corporations if a real estate licensee is under investigation. The bill would also require the Department of Corporations to notify the Department of Real Estate if a finance lender or a residential mortgage lender is under investigation. The bill would prohibit a license from being issued or renewed for a licensee under investigation by the other department.~~

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

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Home ownership is a vital piece of California's social and*
4 *economic fabric and remains a top priority for California families*
5 *and individuals.*

6 *(b) Home ownership has been shown to reduce crime, increase*
7 *school retention and graduation, civic engagement, children's*
8 *future earning potential and overall life satisfaction, and promote*
9 *neighborhood stability.*

10 *(c) Home equity represents two-thirds of all low-income family*
11 *wealth. The median wealth of nonelderly, low-income homeowners*
12 *is 12 times greater than the median wealth of similar renters with*
13 *the same income.*

14 *(d) In today's home loan market, lenders very rarely retain and*
15 *service the loans they make to borrowers. More commonly, a*
16 *borrower obtains a home loan from a lender known as an*
17 *originator. The originator typically funds the loan with a line of*
18 *credit from a Wall Street investment bank or a commercial bank.*
19 *Once the loan funds, the originator sells the loan to a bank. The*
20 *purchasing bank packages that loan with others into home*
21 *loan-backed securities it sells to investors.*

22 *(e) According to the Center for Responsible Lending, as many*
23 *as 2.2 million Americans with subprime loans have lost or will*
24 *lose their homes because of home loans that they cannot afford.*

25 *(f) According to the Federal Reserve Board, the percentage of*
26 *loans at least 30 days overdue rose to 2.11 percent during the*

1 fourth quarter of 2006, up from 1.72 percent during the prior
2 quarter.

3 (g) According to a recent report by the Mortgage Bankers
4 Association, the percentage of foreclosures initiated during the
5 fourth quarter of 2006 was the highest the trade group has
6 observed since it started measuring these in 1972. The association
7 also observed that 4.5 percent of all subprime home loans
8 nationwide were in the process of being foreclosed at the end of
9 the fourth quarter, up from 3.3 percent a year earlier.

10 (h) Approximately 13.3 percent of all subprime borrowers were
11 behind on their payments, the highest level since 2002.

12 (i) A study released in early March by UBS-AG shows that the
13 default rate for Alt-A home loans has doubled in the past 14
14 months, up to 2.4 percent of all Alt-A loans outstanding (though
15 still low compared to the 10.5 percent delinquency rate reported
16 by UBS-AG for subprime loans it examined).

17 (j) The UBS-AG study found that problems are greatest among
18 Alt-A borrowers who took out interest-only ARMs, paid little, if
19 any, money down on their loan, and fail to document their income
20 or assets.

21 (k) On March 19, 2007, First American CoreLogic released a
22 research report that predicted the volume of foreclosures likely to
23 result from the subprime home loan shakeout. Looking at 26 million
24 home loans, including over eight million adjustable rate mortgages
25 (ARMs) originated between 2004 and 2006, the analysis forecasts
26 that 1.1 million loans originated between 2004 and 2006 will be
27 foreclosed over the next six to seven years, representing 13 percent
28 of the ARMs originated through purchase or refinance from 2004
29 through 2006.

30 (l) RealtyTrac, in a 2006 Foreclosure Market Report, revealed
31 that this state was one of the top states in the country relative to
32 foreclosures.

33 (m) According to the United States Joint Economic Committee,
34 seven metropolitan areas in the top 50 foreclosure areas are in
35 this state.

36 (n) On February 27, 2007, Freddie Mac announced that, as of
37 September 1, 2007, it “would no longer purchase subprime
38 mortgages that have a high likelihood of excessive payment shock
39 and possible foreclosure.”

1 (o) Subprime home loans exploded in popularity during the
2 housing boom earlier this decade. Critics of subprime loans,
3 including regulators, contend that lenders relaxed standards and
4 made loans to borrowers who could not afford to buy homes in
5 the first place, especially in such expensive real estate markets as
6 Boston.

7 (p) Foreclosures can devastate families whose primary asset is
8 their home, leading to bankruptcies, poor credit ratings, and tax
9 liability from acquired interest and balances that are forgiven debt
10 and then counted as taxable income.

11 (q) Foreclosures can cost local governments because foreclosed
12 property that remains vacant may become an economic and
13 administrative drain for cities and counties.

14 (r) Foreclosures can negatively impact communities by creating
15 a domino effect of foreclosures.

16 (s) Foreclosures diminish neighborhood financial security and
17 sustainability as higher foreclosure rates ripple through local
18 markets and each house is tossed back into the market adding to
19 the supply of homes for sale that could bring down overall home
20 prices.

21 (t) A recent study found that a single family home foreclosure
22 lowers the value of homes located within one-eighth of one mile
23 by an average of 0.9 percent.

24 (u) The recent spike in foreclosures is a result of either one or
25 a combination of the following factors, including, but not limited
26 to, relaxed underwriting standards, predatory lending practices,
27 financial illiteracy, and lack of regulatory oversight.

28 (v) Subprime lending is a valuable loan practice that, when
29 done responsibly by both borrowers and lenders, can provide home
30 buying choices and opportunities for borrowers with less than
31 desirable credit profiles.

32 (w) Subprime lending can also allow borrowers to maximize
33 their borrowing potential to save cash assets.

34 (x) Certain nontraditional loan products, such as option-ARMS,
35 hybrid ARMS, interest only, and state income loans, have come
36 under recent scrutiny due to potential payment shock resulting
37 from payment adjustments.

38 (y) Many borrowers are unable to switch to another loan
39 product due to excessive prepayment penalties or a lack of contact
40 with the holders of secured home loans on the secondary market.

1 (z) *Due to this growing crisis and its impact on the California*
2 *economy, the Legislature finds it necessary to establish a program*
3 *to assist first-time homebuyers, under certain conditions, with*
4 *refinance assistance for the purpose of assisting these homeowners*
5 *into traditional fixed rate home loan products, where applicable.*

6 (aa) *It is not the intent of the Legislature to bail out mortgage*
7 *lenders or bond holders, nor assist housing market speculators*
8 *and investors.*

9 (bb) *The Legislature finds that those lenders who make*
10 *investments in the California Housing Trust Fund should received*
11 *favorable credit under the Community Reinvestment Act.*

12 SEC. 2. *Section 50841 of the Health and Safety Code is*
13 *amended to read:*

14 50841. (a) *There is hereby created in the State Treasury the*
15 *California Housing Trust Fund. Notwithstanding Section 13340*
16 *of the Government Code, all money in the fund is continuously*
17 *appropriated for the purposes of investment in a manner calculated*
18 *to deliver the greatest rate of return consistent with the*
19 *requirements of Section 16430 of the Government Code.*

20 ~~(b)~~

21 (b) (1) *The California Housing Finance Agency may accept*
22 *donations into the California Housing Trust Fund from public or*
23 *private sources for the purpose of assisting homeowners refinance*
24 *home loans with variable interest rates, under specified*
25 *circumstances, into stable, fixed rate loan products. In order to*
26 *carry out this paragraph, the agency may offer to refinance home*
27 *loans with variable interest rates for borrowers facing foreclosure*
28 *if all of the following criteria are met:*

29 (A) *The holder of the loan agrees to waive all prepayment*
30 *penalties.*

31 (B) *The borrower's income complies with the current agency*
32 *income limits for first-time homebuyers.*

33 (C) *The property securing the home loan debt is the sole*
34 *residence of the borrower.*

35 (2) *The agency, in consultation with the Secretary of the*
36 *Business Transportation and Housing Agency, may draft other*
37 *regulations to carry out this paragraph.*

38 (c) *All interest or other increment resulting from investment or*
39 *deposit of moneys in the fund shall be deposited in the fund,*
40 *notwithstanding Section 16305.7 of the Government Code. Except*

1 as provided in Section 50842, no money in the fund shall be spent,
2 loaned, transferred, or otherwise removed from the fund.

3 ~~SECTION 1. Section 10149.5 is added to the Business and~~
4 ~~Professions Code, to read:~~

5 ~~10149.5. The department shall notify the Department of~~
6 ~~Corporations if a real estate licensee is under investigation. A~~
7 ~~license shall not be issued or renewed for a licensee under~~
8 ~~investigation by the Department of Corporations.~~

9 ~~SEC. 2. Section 22169 is added to the Financial Code, to read:~~

10 ~~22169. The department shall notify the Department of Real~~
11 ~~Estate if a finance lender is under investigation. A license shall~~
12 ~~not be issued or renewed for a licensee under investigation by the~~
13 ~~Department of Real Estate.~~

14 ~~SEC. 3. Section 50007 is added to the Financial Code, to read:~~

15 ~~50007. The department shall notify the Department of Real~~
16 ~~Estate if a residential mortgage lender is under investigation. A~~
17 ~~license shall not be issued or renewed for a licensee under~~
18 ~~investigation by the Department of Real Estate.~~