AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1538

Introduced by Assembly Member Lieu

February 23, 2007

An act to amend Section 50841 of the Health and Safety Code, relating to home loans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1538, as amended, Lieu. 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.

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

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

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

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

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

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

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

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

(f) According to the Federal Reserve Board, the percentage of loans at least 30 days overdue rose to 2.11 percent during the fourth quarter of 2006, up from 1.72 percent during the prior quarter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(bb)~~

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

(ac) This act shall be known and may be cited as the Foreclosure Prevention Act.

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

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

(b) (1) The California Housing Finance Agency may accept donations into the California Housing Trust Fund from public or private sources for the purpose of assisting *first-time* homeowners refinance home loans with variable interest rates, *prepayment penalties, balloon payments, or excessive fees,* under specified circumstances, into stable, fixed rate loan products. ~~In order to carry out this paragraph, the agency~~

(2) The California Housing Finance Agency may offer to refinance home loans with variable interest rates for borrowers facing foreclosure if all of the following criteria are met:

(A) The holder of the loan agrees to waive all prepayment penalties*, fees, and other penalties*.

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

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

(D) The borrower has participated in a housing counseling program approved by the Department of Housing and Urban Development within four weeks before the completion of a refinance under this section.

~~(2)~~

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

(c) All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Except as provided in Section 50842, no money in the fund shall be spent, loaned, transferred, or otherwise removed from the fund.

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