

AMENDED IN SENATE MAY 13, 2010

SENATE BILL

No. 1178

Introduced by Senator Corbett

February 18, 2010

An act to amend Section 580b of the Code of Civil Procedure, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, as amended, Corbett. Real property: deficiency judgments.

Existing law provides that no deficiency judgment lies in any event after a sale of real property or an estate for years for failure of the purchaser to complete the contract of sale, or under a mortgage or trust deed given to the vendor to secure payment of the balance of the purchase price of real property, or under a mortgage or trust deed on a dwelling, as specified, given to a lender to secure repayment of a loan which was in fact used to pay all or part of the purchase price of the dwelling.

This bill would provide that a loan used to pay all or part of the purchase price of real property or an estate for years includes subsequent loans, mortgages, or deeds of trust that refinance or modify the original loan, but only to the extent that the subsequent loan was used to pay debt incurred to acquire, construct, or substantially improve the real property. *The bill would become operative on June 1, 2011, and would apply only to actions filed after its operative date.*

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

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

SECTION 1. Section 580b of the Code of Civil Procedure is amended to read:

580b. No deficiency judgment shall lie in any event after a sale of real property or an estate for years therein for failure of the purchaser to complete his or her contract of sale, or under a deed of trust or mortgage given to the vendor to secure payment of the balance of the purchase price of that real property or estate for years therein, or under a deed of trust or mortgage on a dwelling for not more than four families given to a lender to secure repayment of a loan which was in fact used to pay all or part of the purchase price of that dwelling occupied, entirely or in part, by the purchaser.

Where both a chattel mortgage and a deed of trust or mortgage have been given to secure payment of the balance of the combined purchase price of both real and personal property, no deficiency judgment shall lie at any time under any one thereof if no deficiency judgment would lie under the deed of trust or mortgage on the real property or estate for years therein.

For purposes of this section, a loan used to pay all or part of the purchase price of real property or an estate for years shall include subsequent loans, mortgages, or deeds of trust that refinance or modify the original loan, but only to the extent that the subsequent loan was used to pay debt incurred to acquire, construct, or substantially improve the real property. *The borrower shall have the burden of proof to demonstrate the portion of the subsequent loan, mortgage, or deed of trust that was used to acquire, construct, or substantially improve the real property.*

SEC. 2. *This act shall become operative on June 1, 2011, and shall apply only to actions filed after its operative date.*