

Senate Bill 1201

Residential Mortgage Lending Document Translation

Senator Jackson

SUMMARY

SB 1201 would require a supervised financial organization, such as a bank, to provide specified documentation concerning the terms of a modified mortgage loan or extension of credit secured by residential real property in Spanish, Chinese, Tagalog, Vietnamese, or Korean, as appropriate, if the modified mortgage loan or extension of a credit was primarily negotiated in one of those languages. SB 1201 would also require the Department of Business Oversight to remove an order revoking the operating license of a supervised financial organization if the department fails to provide the financial organization a license review hearing within 90 days of issuing its revocation order.

BACKGROUND

Mortgage loans and extensions of credit are regarded as among the most complex financial transactions that a person will make during their lifetime, due to the difficulty of understanding key loan terms including prepayment penalties and interest rate adjustments. For people whose first language is not English, the language barrier poses another significant obstacle to understanding these complex agreements.

Responding to this challenge, the Legislature passed AB 1150 (Fong, Ch. 274, Stats. 2009), which requires basic document translation services if negotiations concerning a mortgage loan or extension of credit with a supervised financial institution are primarily negotiated in Spanish, Chinese, Tagalog, Vietnamese or Korean. Under current law, these institutions are required to provide translated versions of Loan Estimate forms, Closing Disclosure forms, and Good Faith Estimate Disclosure forms, and the Department of Business Oversight (DBO) provides institutions with the needed language translations using translated disclosures from the United States Department of Housing and Urban Development.

While translated documents are provided when a mortgage loan or extension of credit is originally negotiated, existing law does not require translated documents to be provided when the parties modify

their agreements, even though negotiations to modify the agreement occurred in one of those five languages.

Further, under existing law, the Commissioner of Business Oversight has the authority to revoke the license of a supervised financial organization that fails to file certain required financial statement prepared by an independent certified public accountant. After the Commissioner issues a revocation order, a supervised financial organization has the ability to request a hearing with the Department of Business Oversight to review its financial statements and regain its license, but during this period that organization is prohibited from operating. Under current practice, once a hearing notice is set there is no explicit timeline for the license review hearing to take place, which can be extremely detrimental to financial organizations temporarily suspended from operating.

SOLUTION - 1201

AB 1201 would require supervised financial organizations to provide consumers with translated documents summarizing key loan terms when the parties agree to modify existing mortgage loans or extensions of credit secured by residential real property, when these modifications are primarily negotiated in Spanish, Chinese, Tagalog, Vietnamese or Korean.

AB 1201 would also ensure licensees under the California Residential Mortgage Lending Act facing license revocation for failing to file a financial report are entitled to a hearing under the Administrative Procedure Act, and require the Department of Business Oversight to remove the revocation order if the department fails to provide the hearing within 90 days of issuing its revocation order.

SUPPORT

State of California Department of Business Oversight

STATUS

Set for hearing on April 18th in the Senate Banking and Financial Institutions Committee.

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