

2012

## Summary of Legislation 2011-2012

Assembly Banking and Finance Committee

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# Summary of Legislation 2011-2012

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## **COMMUNITY INVESTMENTS**

### **AB 38 (Bradford) Banking: underserved communities**

This bill would have directed the Department of Financial Institutions to work with local agencies to compile a list of underserved communities or regions that lack a concentration of depository institutions and financial services.

*Status: Vetoed by Governor*



## **CONSUMER LOANS**

### **AB 336 (Dickinson) Consumer loans**

This bill would have established standards, prohibitions and requirements on lenders that provide loans collateralized by a motor vehicle (car title loans).

*Status: Died in Assembly Banking and Finance Committee*

### **AB 986 (Eng) Finance lenders**

This bill would have required the Commissioner of Corporations to submit a report, on or before January 1, 2014, to the Senate Committee on Banking and Financial Institutions and the Assembly Committee on Banking and Finance summarizing the utilization of the Pilot Program for Affordable Credit-Building Opportunities and including recommendations relative to the continuation of the program.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 1158 (Charles Calderon) Deferred Deposit transactions**

This bill would have authorized the face amount of a check for a deferred deposit transaction to be up to \$500.

*Status: Died in Senate Judiciary Committee*

### **AB 1980 (Roger Hernández) Loans: disclosures: financial facts label**

This bill would require licensees to, on and after January 1, 2014, and until January 1, 2018, to include a financial facts label with any deferred deposit transaction or an unsecured consumer loan in a principal amount that is equal to or less than \$2,500. The bill would further require the financial facts label to be placed on specified advertising.

*Status: Died in Assembly Banking and Finance Committee*

**AB 2233 (Atkins) Small Installment Consumer Loan Act.**

This bill would authorize licensed finance lenders and brokers to make small installment consumer loans for a limited term, of an amount of at least \$750 and no more than \$2,500. The bill would authorize licensees to contract for and receive specified alternative interest rates and charges, including an administrative fee, an account service fee, and a returned check fee. The bill would also specify that the borrower has a right to rescind a small installment consumer loan, as specified, and would require the lender to disclose this right to the borrower in the loan agreement.

*Status: Died in Assembly Banking and Finance Committee*

**SB 956 (Lieu) Buy-here-pay-here automobile sellers and lenders.**

This bill would enact the Buy-Here-Pay-Here Automobile Dealers Act. The bill would define a “buy-here-pay-here” dealer as a dealer, as defined, who enters into conditional sale contracts, as defined, or lease contracts, as defined, and assigns less than 90% of all unrescinded contracts to an unaffiliated 3rd-party finance or leasing source, within 45 days of the consummation of those contracts. The bill would exclude from this definition automobile sellers who meet specified requirements. This bill would require those dealers to obtain a finance lender license and subject them to other specified provisions of the California Finance Lenders Law. The bill would also define a “buyer-borrower” as a person who enters into a conditional sale contract or lease contract with a buy-here-pay-here automobile dealer. The bill would provide that the Department of Corporations would have regulatory jurisdiction over the lending and repossessing activities of buy-here-pay-here automobile dealers, as specified.

*Status: Vetoed by Governor*

**SB 976 (Vargas) Finance lenders: exemptions.**

This bill exempts community advantage lender from the California Finance Lenders Law. Defines community advantage lender as an entity authorized by the U.S. Small Business Administration to deliver community advantage loans.

*Status: Chaptered by Secretary of State, Chapter 328, Statutes of 2012*

**SB 1465 (Yee) Loan Programs.**

This bill would, *until March 31, 2017*, require the Secretary of Business, Transportation and Housing or his or her designee, to the extent that the secretary determines to be practical, to enter into loans or loan guarantee agreements with financial institutions that provide export financing in the state for the purpose of increasing exports to out-of-state markets and increasing jobs in California.

*Status: Gut & Amended- removed from the Assembly Banking and Finance Committee*

## **CORPORATIONS**

### **AB 571 (Hagman) Corporations: distributions**

This bill updated sections of the Corporations Code governing the issuance of dividends and redemption of shares by California corporations.

*Status: Chaptered by Secretary of State, Chapter 203, Statutes of 2011*

### **AB 657 (Gordon) Corporations: statement of information: Secretary of State**

This bill allowed a corporation to receive the annual renewal notice provided by the Secretary of State by electronic mail. The bill also made conforming changes to the statement of information.

*Status: Chaptered by Secretary of State, Chapter 204, Statutes of 2011*

### **AB 1161 (Skinner) Cooperative Corporations**

This bill would have renamed the law as the Cooperative Corporation Law, and provided alternative provisions to which a cooperative corporation may elect to be subject by designating itself as a worker cooperative in its bylaws. This bill would have limited a member of a worker cooperative to only one vote on a matter to be voted on by all classes voting together as a single class, regardless of the number of voting classes in which the person is a member. This bill would also have required notice of a meeting in which members of a worker cooperative are entitled to vote to be sent no more than 24 hours before the time of the meeting. This bill would have made other conforming changes.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 1211 (Silva) Not-for-profit corporations**

This bill enacted a variety of technical and clarifying changes to the laws governing nonprofit corporations and unincorporated associations.

*Status: Chaptered by Secretary of State, Chapter 442, Statutes of 2011*

### **AB 1680 (Wieckowski) Dissenting shareholders' rights**

This bill would provide that the fair market value of dissenting shares shall be determined as of the day of, and immediately prior to, the first announcement of the terms of the proposed transaction, subject to adjustment. The bill would eliminate the provision making holders of publicly traded shares only eligible to receive the fair market value of their dissenting shares if 5% or more of the shares are dissenting shares. The bill would require a dissenting shareholder who demands that the corporation purchase his or her shares to include a statement of what the shareholder claims is the fair market value of those shares and that statement would constitute an offer by the shareholder to sell the shares at that price.

*Status: Chaptered by Secretary of State, Chapter 473, Statutes of 2012*

### **AB 2260 (Hagman) Foreign corporations**

This bill would specify that provisions pertaining to foreign corporations qualified to do business in the state shall not be construed to authorize the state to regulate the organization or internal affairs of those foreign corporations, except to the extent of the existing law provisions imposing liability on directors of a foreign corporation, and authorizing courts of this state to enforce that liability.

*Status: Died in Senate Judiciary Committee*

### **AB 2668 (Committee on Banking and Finance) Corporate agents: indemnification**

This bill would apply to a fiduciary of a pension, deferred compensation, saving, thrift or other retirement, incentive or benefit plan, trust or provision for any or all of the corporation's directors, officers, employees, and persons providing services to the corporation or any of its subsidiary or related or affiliated corporations.

*Status: Chaptered by Secretary of State, Chapter 61, Statutes of 2012*

### **SB 201 (DeSaulnier) Flexible purpose corporations**

This bill authorized the creation of a new corporate form called a flexible purpose corporation, and provided for all of the rules that must be followed by these types of entities and by other types of entities wishing to become flexible purpose corporations.

*Status: Chaptered by Secretary of State, Chapter 740, Statutes of 2011*

### **SB 918 (Anderson) Mutual water companies: boards of directors**

This bill provided that a mutual water company incorporated as a general corporation may elect directors to staggered 4-year terms and allow the initially elected directors to determine by lot which of them shall instead serve a 2-year term. The bill also required the mutual water company to notify its shareholders, prior to the election, that the directors shall determine their terms by lot.

*Status: Chaptered by Secretary of State, Chapter 89, Statutes of 2011*

### **SB 1058 (Lieu) Victims of Corporate Fraud Compensation Fund**

The bill would provide that an aggrieved person who obtains a final judgment, as specified, against a corporation based upon the corporation's fraud, misrepresentation, or deceit, made with intent to defraud, may file an application with the Secretary of State for payment from the fund for the amount unpaid on the judgment that represents the awarded actual and direct loss to the claimant in the final judgment. The bill would limit the amount to be paid from the fund to \$50,000 with respect to any one claimant.

*Status: Chaptered by Secretary of State, Chapter 564, Statutes of 2012*

### **SB 1208 (Leno) Publicly traded corporations: compensation: disclosure**

This bill would require that a publicly traded corporation include in the statement described above the total compensation, paid to each member of the board of directors, the principal executive officer, principal financial officer, and each of the 3 most highly compensated executive officers, other than the principal executive officer or principal financial officer, who are not members of the board. The bill would also require a publicly traded corporation to include in that statement total compensation information with respect to each of the corporation's 5 most highly compensated retirees, and the names of those retirees.

*Status: Died on the Assembly Floor*

### **SB 1532 (Pavley) Business filings**

This bill would specify that the required address is the initial street address, and would require the business entity to provide its initial mailing address, if different from its street address. This bill would apply the same provisions to the initial street address and initial mailing address of a corporation and would prohibit a corporation from amending its articles to add any statement, in addition to altering any statement, regarding the above information. This bill would include in that exception the corporation's initial street address and initial mailing address. This bill would eliminate the above provisions pertaining to those forms of special purpose corporations. This bill would revise those requirements, as specified.

*Status: Chaptered by Secretary of State, Chapter 494, Statutes of 2012*

## **EMPLOYMENT**

### **AB 51 (Yamada & Carter) Payroll cards**

This bill would have authorized employers to pay employee wages by means of payroll cards that meet certain specified conditions.

*Status: Died in Senate Banking and Financial Institutions*



## **FINANCIAL EDUCATION**

### **AB 597 (Eng) California Financial Literacy Fund**

This bill established the California Financial Literacy Fund in the State Treasury for the purpose of enabling partnerships with the financial services community and governmental and nongovernmental stakeholders to improve Californians' financial literacy. The bill required the fund to be administered by the Controller and would authorize the Controller to deposit private donations into the fund. The bill would require those moneys to be made available upon appropriation in the annual Budget Act and would require donations to be returned to contributors if not appropriated within 18 months. The bill would require the Controller, beginning in 2013, to provide an annual summary to specified committees of the Legislature on the use of those moneys appropriated from the fund.

*Status: Chaptered by Secretary of State, Chapter 612, Statutes of 2011*

## **IDENTITY THEFT**

### **AB 1080 (Charles Calderon) Internet transactions: verification: banking and financial services**

This bill would have required a business that provides banking or other financial services and that allows for the movement of specified funds over the Internet to collect and report, on an annual basis, information relating to unauthorized transfers of funds over the Internet, and to post this report on its Internet Web site.

*Status: Died in Assembly Judiciary Committee*

### **AB 1219 (Perea) Credit cards: personal information**

This bill provided clarification for those instances when an entity that accepts credit cards may not request certain types of personal identification information to complete the transaction. This bill also creates an express exemption from the prohibition against the collection and retention of zip code information when the zip code is used solely for prevention of fraud, theft, or identify theft in a sales transaction at a retail motor fuel dispenser or retail motor fuel payment island automated cashier.

*Status: Chaptered by Secretary of State, Chapter 690, Statutes of 2011*

### **AB 2374 (Roger Hernández) Consumer credit reports: security freezes**

This bill would prohibit a consumer credit reporting agency from charging any fee upon a consumer 65 years of age or older for placing an initial security freeze. A consumer credit reporting agency would be authorized to charge a consumer 65 years of age or older a fee of no more than \$5 for lifting, removing, or replacing a security freeze.

*Status: Chaptered by Secretary of State, Chapter 645, Statutes of 2012*

**SB 586 (Pavley) Banks and credit unions: signature stamps**

This bill would have imposed a series of restrictions on the issuance of signature stamps by state-chartered banks and credit unions.

*Status: Vetoed by Governor*

## **MORTGAGES**

### **AB 406 (Davis) Adjustable rate mortgages: balloon payments**

This bill would have prohibited the inclusion of a balloon payment in an adjustable rate residential mortgage loan.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 407 (Davis) Mortgages: prepayment penalties**

This bill would have prohibited the imposition of prepayment charges for loans secured by a mortgage or deed of trust on real property improved with one to 4 dwelling units.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 643 (Davis) Mortgages: counseling**

This bill would have required a mortgage broker to provide a borrower with pre-purchase mortgage debt counseling that explains what a prudent debt-to-income ratio would be for the borrower taking into account the borrower's income and credit rating.

*Status: Died in Assembly Appropriations Committee*

### **AB 645 (Davis) Real property transactions**

This bill would have provided that the fiduciary duty owed to a borrower includes a requirement that the mortgage broker provide information to a borrower regarding the advantages and disadvantages of the loan options available to the borrower based upon the borrower's income and credit rating. This bill would also have provided that the fiduciary duty owed to a borrower includes, if a broker arranges a loan that is less advantageous than a loan for which the borrower is otherwise qualified and the borrower defaults on the loan, sending a letter to any consumer reporting agency indicating that the broker arranged the loan and that the loan was less advantageous than a loan the broker could have arranged for which the borrower was otherwise qualified.

*Status: Gut & Amended- removed from the Assembly Banking and Finance Committee*

### **AB 935 (Blumenfield) Foreclosures: foreclosure mitigation charges**

This bill would have prohibited a notice of trustee's sale from being accepted for filing with a county recorder until the mortgage servicer pays a foreclosure mitigation charge of 5% of the price for which the house was last sold, a charge not to exceed 20,000.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 1547 (Eng) Residential mortgage loans: foreclosure procedures**

This bill extends the sunset date indefinitely on requiring a 30-day notice to be given to the borrower of certain home mortgages before a mortgagee, trustee, beneficiary, or authorized agent may file a notice of default. Would also require indefinitely for mortgagee, trustee, beneficiary, or authorized agents to contact the borrower, in order to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. This bill would require a legal owner to maintain vacant residential property acquired through foreclosure. Authorizes a governmental entity to impose civil fines and penalties for failure to maintain that property of up to \$1,000 per day for a violation, after notice and an opportunity to correct the violation is given. Requires a tenant or subtenant in possession of a rental housing unit at the time the property is sold in foreclosure to be given 60 days' written notice to quit the property before being removed.

*Status: Died in Assembly Banking and Finance Committee*

**AB 1557 (Skinner) Real property: maintenance of foreclosed property: violations.**

This bill would extend the sunset date to January 1, 2018 for a legal owner to maintain a vacant residential property purchased at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. The sunset date would also be extended to authorize a governmental entity to impose civil fines and penalties for failure to maintain that property of up to \$1,000 per day for a violation. Would also require a governmental entity that seeks to impose those fines and penalties to give notice of the claimed violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties, and to allow a hearing for contesting those fines and penalties.

*Status: Died in Assembly Banking and Finance Committee*

**AB 1602 (Eng & Feuer) Mortgages and deeds of trust: foreclosure**

This bill would require the borrower to be provided, if applicable, with a deadline for the borrower to submit an initial application for a loan modification. The bill would require the declaration to also state that the borrower was not a servicemember or dependent of a servicemember entitled to benefits under the federal Servicemembers Civil Relief Act, that the mortgagee, trustee, beneficiary, or authorized agent has possession of the note and mortgage, or deed of trust, and other specified documents that evidence the right to foreclose, and has attached copies thereof to the declaration, or a separate declaration containing specified information, if the above described documents cannot be located. The bill would prescribe procedures and notices that must be sent by the mortgagee, trustee, beneficiary, or authorized agent if the notice of default was filed prior to January 1, 2013, and a notice of rescission was not subsequently recorded. The bill would prohibit recording a notice of default unless a specified written notice has been sent at least 14 days before a notice of default is recorded.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 1745 (Torres) Mortgages: notices of sale**

This bill would prohibit a mortgagee, trustee, beneficiary, or authorized agent from recording a notice of sale after providing written approval of a short sale. The bill would also authorize a mortgagee, beneficiary, or authorized agent to withdraw an approval of a short sale if the mortgagor or trustor fails to comply with a condition of the written short sale agreement. The bill would also require a written notice to be provided to a mortgagor or trustor not less than 3 days following the written withdrawal of approval that includes the reason or reasons for the withdrawal. The bill would also provide that the prohibition against recording a notice of sale would not apply after written withdrawal of a short sale approval is provided to a mortgagor or trustor, unless subsequent approval of a short sale is provided.

*Status: Died in Senate Judiciary Committee*

### **AB 2010 (Bonilla) Reverse mortgages: counseling**

This bill would require the certification to indicate that the reverse mortgage counseling was conducted in person, unless the borrower elected to receive the counseling in another manner.

*Status: Chaptered by Secretary of State, Chapter 641, Statutes of 2012*

### **AB 2425 (Mitchell) Mortgages and deeds of trust: foreclosure**

This bill would define a mortgage servicer, and would, commencing July 1, 2013, require a mortgage servicer to establish a single point of contact when a borrower on a residential mortgage or deed of trust is 60 or more days delinquent, has had a notice of default recorded, or is seeking a loan modification or other loss mitigation, as specified. The bill would impose various obligations on the single point of contact in connection with loan modification or other loss mitigation options.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 2666 (Committee on Banking and Finance) Mortgage loan originators**

This bill would provide that a government employee and an employee of a nonprofit organization who originate loans exclusively in their capacity as an employee, under certain conditions as specified, are not mortgage loan originators under the California Finance Lenders Law or the California Residential Mortgage Lending Act.

*Status: Chaptered by Secretary of State, Chapter 264, Statutes of 2012*

### **AJR 40 (Skinner) Mortgages**

This measure would urge the Federal Housing Finance Agency, and specifically its director, Edward DeMarco, to immediately allow the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to offer principal reductions to homeowners who owe more on their home loans than what their homes are worth.

*Status: Chaptered by Secretary of State, Chapter 140, Statutes of 2012*

### **SB 4 (Calderon & Vargas) Mortgages**

This bill required, on and after April 1, 2012, that a notice of non-judicial foreclosure sale contain: language notifying potential bidders of specified risks involved in bidding on the property; and a notice to the property owner informing the owner about how to obtain information regarding any postponement of the sale. This bill additionally required a trustee handling the foreclosure to make a good faith effort to provide up-to-date information regarding sale dates and postponements.

*Status: Chaptered by Secretary of State, Chapter 229, Statutes of 2011*

### **SB 6 (Calderon & Vargas) Mortgages: deficiency judgments**

This bill updated California's Real Estate Law, Appraisal Law, and Civil Code, to reflect recent changes enacted at the federal level, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

*Status: Chaptered by Secretary of State, Chapter 716, Statutes of 2011*



### **SB 217 (Vargas) Mortgage loan originators: licensure**

This bill allowed persons to exempt company registration under the California Finance Lenders Law in order to comply with the Secure and Fair Enforcement of Mortgage Licensing Act of 2008. Furthermore, provided clarification on the issuance of mortgage loan originator licenses with the existence of expunged or pardoned felony convictions.

*Status: Chaptered by Secretary of State, Chapter 444, Statutes of 2011*

### **SB 376 (Fuller) Mortgage loan originators**

This bill would specify that a mortgage loan originator means an individual who performs those acts habitually or repeatedly and would also specify that a mortgage loan originator does not include an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for no more than 5 residential mortgage loans in a calendar year where the loans are made in connection with the sale of residential property and the loan proceeds are from the seller's own funds.

*Status: Died in Assembly Banking and Finance Committee*

### **SB 458 (Corbett) Mortgages: deficiency judgments**

This bill expanded anti-deficiency protection for all mortgages or deeds of trust, provided that the holder of the mortgage or deed of trust consents to the short sale. This bill also restated the above prohibition to clarify that the provisions do not impact multiple collateral loans.

*Status: Chaptered by Secretary of State, Chapter 82, Statutes of 2011*

## **PAWNBROKERS**

### **AB 424 (Eng) Pawnbrokers**

This bill increased the limits on the compensation pawnbrokers are allowed to charge for their services, standardized time references in the pawnbroker statutes to refer to months rather than days, and defined a month in the pawnbroker statutes as a period of time consisting of 30 consecutive days.

*Status: Chaptered by Secretary of State, Chapter 318, Statutes of 2011*

## **REGULATORY REFORM**

### **AB 1076 (Achadjian) Credit Unions**

This bill amended the circumstances under which a credit union can enter into an obligation with a director, officer, or member of the supervisory committee of the credit committee of that credit union.

*Status: Chaptered by the Secretary of State, Chapter 326, Statutes of 2011*

### **AB 1207 (Furutani) Department of Consumer Affairs**

This bill would have made technical, nonsubstantive changes to the powers of the Director of Consumer Affairs.

*Status: Gut & Amended- removed from the Assembly Banking and Finance Committee*

### **AB 2006 (John A. Pérez) Credit union services**

This bill would authorize a credit union to sell, to a natural person in the field of membership, regardless of whether the person is admitted to membership, checks, and other similar money transfer instruments, including domestic and international electronic funds transfers. The bill would authorize a credit union to cash checks and other similar money transfer instruments and to receive international and domestic electronic fund transfers for those persons. The bill would also authorize a credit union to charge a fee for providing these services, not to exceed the cost of providing the services.

*Status: Chaptered by Secretary of State, Chapter 246, Statutes of 2012*

**AB 2081 (Allen) Securities transactions: qualification requirements: exemptions**

This bill would, until January 1, 2016, exempt from qualification offerings or sales of securities using a general solicitation or general advertising, provided the transaction meets specified requirements, including a requirement that the sales are made to accredited investors and the aggregate offering price of securities, as defined by reference to Regulation D, does not exceed \$1,000,000, less the aggregate offering price for all securities sold within 12 months. This bill would declare that it is to take effect immediately as an urgency statute.

*Status: Died on the Senate Floor*

**AB 2481 (Morrell) Financial institutions**

This bill would expand the forms of security that may be placed by depository institutions with the State Treasurer and county treasurers, to enable those depositories to receive deposits of state and local funds.

*Status: Died in Senate Banking and Financial Institutions Committee*

**AB 2646 (Gatto) Credit unions: branch offices: Indian reservations**

This bill would authorize a state-certified credit union, with the approval of the appropriate tribal government, to operate a branch office on an Indian reservation.

*Status: Died in Assembly Banking and Finance Committee*

**AB 2667 (Committee on Banking and Finance) Personal property: fraudulent transfers.**

This bill would require the transferor or the transferee to file, prior to the date of the intended transfer, a financing statement authorized in an authenticated record by the transferor with respect to the property transferred.

*Status: Chaptered by Secretary of State, Chapter 60, Statutes of 2012*

### **SB 53 (Calderon & Vargas) Real estate licensees**

This bill made several changes to California's Real Estate Law, to give the Department of Real Estate more enforcement tools with which to crack down against mortgage fraud and other real estate violations, added safeguards to protect consumers who seek out services from real estate licensees, and made technical changes, intended to clean up certain portions of the Real Estate Law.

*Status: Chaptered by Secretary of State, Chapter 717, Statutes of 2011*

### **SB 510 (Correa) Real estate brokers: corporate officers: designating branch**

This bill established various minimum requirements for an individual to become a branch manager and authorized the Commissioner of the Department of Real Estate to discipline a branch manager for failure to supervise branch operations.

*Status: Chaptered by Secretary of State, Chapter 709, Statutes of 2011*

### **SB 664 (Banking and Financial Institutions) Financial institutions**

This bill renumbered sections of the Financial Code to reflect recent Financial Code reorganization and make certain conforming changes to the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

*Status: Chaptered by Secretary of State, Chapter 243, Statutes of 2011*

### **SB 708 (Corbett) Funds transfers**

This bill would make the provisions of the Uniform Commercial Code—Funds Transfers applicable to a remittance transfer, but would continue to exempt a remittance transfer that is an electronic fund transfer, as defined under the federal act.

*Status: Chaptered by Secretary of State, Chapter 392, Statutes of 2012*

## **SB 890 (Leno) Debt buyers**

This bill would enact the Fair Debt Buyers Practices Act, which would regulate the activities of a person or entity that has bought consumer debt and the circumstances in which the person may bring suit. The bill would prohibit a debt buyer, from making any written statement in an attempt to collect a consumer debt unless the debt buyer possesses information that the debt buyer is the sole owner of the specific debt at issue, the debt balance, and the name and address of the creditor at the time the debt was charged off, among other things. The bill would require the debt buyer to make certain documents available to the debtor, without charge, upon receipt of a request, within 15 days. The bill would require that a specified notice be included with the debt buyer's first written communication with the debtor. The bill would require all settlement agreements between a debt buyer and a debtor to be documented in open court or otherwise in writing and would require a debt buyer who receives a payment on a debt to provide a receipt or statement containing certain information. The bill would prohibit a debt buyer from initiating a suit to collect a debt if the statute of limitations on the cause of action has expired. The bill would prescribe penalties for each violation of the act and would provide that its provisions may not be waived. The bill would require a debt buyer bringing an action on consumer debt to include certain information in his or her complaint. The bill would prohibit an entry of judgment in favor of a plaintiff debt buyer unless properly authenticated business records authenticated through a sworn declaration and relating to the debt and ownership of it, among other things, are properly in evidence, submitted by the debt buyer to the court, and would permit a court to dismiss a debt buyer's action to collect with prejudice if this information is not provided or if the debt buyer fails to appear or is not prepared on the date scheduled for trial.

*Status: Died in Assembly Banking and Finance Committee*

## **SB 978 (Vargas) Securities transactions: exemption from qualification requirements**

This bill enacts several changes to the Real Estate Law and Corporations Code, by increasing real estate investor protections, and requiring the Department of Corporations (DOC) to focus greater regulatory scrutiny on, and provide greater transparency regarding, the activities of those who solicit investors in connection with real estate investments.

*Status: Chaptered by Secretary of State, Chapter 669, Statutes of 2012*

## **SB 979 (Vargas) Financial institutions**

This bill would require the commissioner to post the notice of specified orders affecting a licensee or foreign credit union on the department's public Internet Web site. The bill would authorize the commissioner to delay posting the decision or order if he or she makes a finding that such a posting would affect the safety or soundness of the financial institution subject to the order or decision. This bill would also authorize the commissioner to redact certain portions of the orders posted pursuant to these provisions if he or she determines that the redaction is necessary to protect the identity of a customer of the affected institution.

*Status: Chaptered by Secretary of State, Chapter 356, Statutes of 2012*

## **STATE FINANCE**

### **AB 750 (Hueso) Finance: investment trust blue ribbon task force**

This bill would have established the investment trust blue ribbon task force to consider the viability of establishing the California Investment Trust, which would be a state bank receiving deposits of state funds. The task force would be required to consider how the investment trust could strengthen economic and community development, provide financial stability to businesses, reduce the cost paid by state government for banking services, and provide for excess earnings of the trust to be used to supplement General Fund purposes.

*Status: Vetoed by Governor*

### **AB 901 (V. Manuel Pérez) Economic development: small business**

This bill expanded the definition of financial institutions eligible to participate in the California Capital Access Program and increased CalCAP reporting requirements.

*Status: Chaptered by Secretary of State, Chapter 483, Statutes of 2011*

### **AB 981 (Hueso) California Pollution Control Financing Authority: Capital Access Loan Program.**

This bill provided additional incentives within the California Capital Access Program to encourage lenders to lend to small businesses. Specifically, this bill expanded the financial institution definition to include insured depository institutions, insured credit unions, and community development financial institutions, authorized the California Pollution Control Financing Authority to withdraw a portion of the interest or other income that has been credited to the loss reserve account, and required CPCFA to contribute an amount not less than 150 percent of the amount of the fees paid by the participating financial institution if the business is located within a severely affected community.

*Status: Chaptered by Secretary of State, Chapter 484, Statutes of 2011*



### **AB 1408 (Banking and Finance) General Obligation Bonds**

This bill reduced the denominations of general obligation bond minimums from \$1,000 to \$25.

*Status: Chaptered by Secretary of State, Chapter 282, Statutes of 2011*

### **AB 1617 (Dickinson) State fiscal affairs: community banks and credit unions**

This bill would require the Treasurer to ensure that at least 30% of the moneys invested in the time deposit program are invested in time deposits with community banks, to mean a bank or savings institution in California with aggregate assets of less than \$10,000,000,000, and credit unions, subject to specified considerations and a reporting requirement and to the extent consistent with liquidity requirements and prudent management.

*Status: Died in Assembly Banking and Finance Committee*

### **AB 2500 (Hueso) State government: California Investment Trust: state bank**

This bill would establish the California Investment Trust within state government, and would authorize the trust to exercise various powers and duties relating to banking, including, among others, receiving and managing deposits from public funds, loaning money, engaging in financial transactions, and buying and selling federal funds. The bill would require all state money to be deposited into the California Investment Trust. The bill would establish a California Investment Trust Board to be chaired by the Treasurer, and would establish an advisory board for purposes of advising the board. The bill would establish the California Investment Trust Fund for deposit of all state moneys, and would continuously appropriate those moneys to the board for expenditure, thereby making an appropriation of General Fund moneys. The bill would require the State Auditor to make specified audits of the trust, and require the State Auditor, Department of Finance, and the Controller to make specified reports to the Legislature with regard to the trust.

*Status: Died in Assembly Banking and Finance Committee*

**AB 2523 (Hueso) California Infrastructure and Economic Development Bank: participation loans**

This bill would authorize the bank, upon appropriation by the Legislature, to enter into participation loan agreements, with financial institutions for the bank to purchase interests in loans made or held by financial institutions to small businesses. The bill would require the bank, if an appropriation is made to finance the participation loan program, to include in its annual report a summary of the participation loan agreement program, and would require the bank to also submit that portion of the report to the appropriate policy and fiscal committees of the Legislature. The bill would also authorize the bank, upon appropriation by the Legislature, to enter into syndicated loan agreements.

*Status: Died in Senate Appropriations Committee*

**AB 2619 (V. Manuel Pérez) Start-Up California Impact Investment Fund program**

This bill would create the Start-Up California Impact Investment Fund program to provide startup equity funds, to startup firms and small businesses. This bill would authorize the bank, upon appropriation of the Legislature, to make expenditures from the startup equity fund account, which is created within the Infrastructure and Economic Development Bank Fund, to invest in startup firms and small businesses pursuant to certain criteria, priorities, and guidelines.

*Status: Died in Assembly Appropriations Committee*

**SB 225 (Simitian) California Pollution Control Financing Authority: Capital Access Loan Program.**

This bill allowed the California Pollution Control Financing Authority to establish loss reserve accounts for the purposes of terminal rental adjustment clause leasing, if funds are available for contribution into the loss reserve account from any source other than the authority.

*Status: Chaptered by Secretary of State, Chapter 492, Statutes of 2011*

**SB 506 (Simitian) State finance: warrants**

This bill updated and modernized existing law pertaining to registered warrants.

*Status: Chaptered by Secretary of State, Chapter 306, Statutes of 2011*

**SB 1116 (Leno) California Pollution Control Financing Authority: Capital Access Loan Program**

This bill would require a financial institution, if it decides to enroll a qualified loan under the act in order to obtain the protection against loss provided by its loss reserve account, to notify the authority in writing, as specified, within 15 days after the date on which the loan is made. This bill would authorize the Executive Director of the California Pollution Control Financing Authority to authorize an additional 5 days for a financial institution to submit this written notification on a loan-by-loan basis for a reason limited to conditions beyond reasonable control of the financial institution. The bill also, until April 1, 2017, would instead require a participating financial institution, when making a qualified loan that will be enrolled under the act, to require the qualified business to which the loan is made to pay a fee of not less than 1% of the principal amount of the loan, but not more than 3<sup>1</sup>/<sub>2</sub>% of the principal amount, for deposit in the loss reserve account.

*Status: Chaptered by Secretary of State, Chapter 274, Statutes of 2012*

### **Conference Committee on Foreclosure Issues:**

On April 23, 2012, Senate President pro Tem Darrell Steinberg and Assembly Speaker John A. Pérez announced the formation of a Conference Committee to address foreclosure issues and homeowner protections. Assembly Conferees were Assemblymember Mike Eng, Assemblymember Mike Feuer and Assemblymember Donald Wagner. Senate Conferees were Senator Noreen Evans, Senator Ron Calderon, and Senator Sam Blakeslee.

The creation of the Conference Committee arose from a settlement reached between banks (Citi, Wells Fargo, Bank of America, Chase and Ally), federal agencies, and the state attorneys general from 49 states and the District of Columbia. The investigation began in October of 2010 as media stories highlighted widespread allegations regarding the use of "robo-signed" documents used in foreclosure proceedings around the country. The attorneys general formed working groups to investigate the widespread allegations, however, further investigation led to a larger discussion with the five largest mortgage loan servicers regarding various facets of the foreclosure and loan modification process. While conducting their investigation the attorneys general identified deceptive practices regarding loan modifications, foreclosures occurring due to the servicer's failure to properly process paperwork, and the use of incomplete paperwork to process foreclosures in both judicial and non-judicial foreclosure cases.

The settlement also requires major changes in loan servicing required of the five banks party to the settlement. These changes include:

- 1) Information in foreclosure affidavits must be personally reviewed and based on competent evidence.
- 2) Holders of loans and their legal standing to foreclose must be documented and disclosed to borrowers.
- 3) Borrowers must be sent a pre-foreclosure notice that will include a summary of loss mitigation options offered, an account summary, description of facts supporting lender's right to foreclose, and a notice that the borrower may request a copy of the loan note and the identity of the investor holding the loan.
- 4) Borrowers must be thoroughly evaluated for all available loss mitigation options before foreclosure referral, and banks must act on loss mitigation applications before referring loans to foreclosure; i.e., "dual tracking" will be restricted.

- 5) Denials of loss mitigation relief must be automatically reviewed, with a right to appeal for borrowers.
- 6) Banks must implement procedures to ensure accuracy of accounts and default fees, including regular audits, detailed monthly billing statements and enhanced billing dispute rights for borrowers.
- 7) Banks are required to adopt procedures to oversee foreclosure firms, trustees and other agents.
- 8) Banks will have specific loss mitigation obligations, including customer outreach and communications, time lines to respond to loss mitigation applications, and e-portals for borrowers to keep informed of loan modification status.
- 9) Banks are required to designate an employee as a continuing single point of contact to assist borrowers seeking loss mitigation assistance.
- 10) Military personnel who are covered by the SCRA will have enhanced protections.
- 11) Banks must maintain adequate trained staff to handle the demand for loss mitigation relief.
- 12) Application and qualification information for proprietary loan modifications must be publicly available.
- 13) Servicers are required to expedite and facilitate short sales of distressed properties.
- 14) Restrictions are imposed on default fees, late fees, third-party fees, and force-placed insurance.

The Conference Committee was tasked with formulating legislation to require that all mortgage loan servicers follow the servicing standards established by the multi-state settlement agreement. The Conference Committee held five hearings totaling over 20 hours of testimony from stakeholders ranging from servicers, community advocates and individual homeowners. Based on the information gathered at those hearings, the Conference Committee issued two conference reports AB 278 (Eng, Feuer, Mitchell & John A. Pérez) and SB 900 (Leno, Evans, Corbett, DeSaulnier, Pavley & Steinberg) known as the Homeowner's Bill of Rights.

The fundamental issues addressed by the conference reports were:

- Apply servicing standards and borrower protections all mortgage servicers.
- End the process known as "dual track" in which a borrower negotiating in good faith with their bank for a loan modification is shuffled through the foreclosure process.
- Require servicers to establish a single point of contact so that borrowers have a consistent point to raise questions and receive loan modification responses.
- Provide that paperwork filed relative to foreclosure is accurate and complete.
- Provide borrowers with pre-foreclosure information on their rights in the foreclosure process.
- Provide borrowers with the right to receive information on the entity that actually owns their loan.
- Provide servicers a right to remediate violations.

The provisions of the Homeowner's Bill of Rights become law January 1, 2013.

## 2011 OVERSIGHT HEARINGS

January 31, 2011

Los Angeles County Hall of Administration -- Board of Supervisor's Hearing Room  
500 W. Temple St., Los Angeles, CA  
9:30 a.m. – 1:00 p.m.

Home Foreclosure in California – Can We Do More To Respond To This Continuing Impediment to Economic Recovery, Homeownership, Strong Communities, and Jobs?

Joint Oversight Hearing of the Assembly Banking, Housing and Judiciary Committees

- I. Introduction and opening remarks – Committee chairs and other members (3 minutes) – *Chaired by Assembly Member Feuer*
- II. Overview of the California real estate market, mortgage defaults and foreclosure activity, the state's economy, and forecasts for recovery (10 minutes) – *Chaired by Assembly Member Eng*  
*Prof. Stuart Gabriel, Director, Ziman Center for Real Estate – Anderson School of Management, UCLA*
- III. Federal, State and Industry Responses to Homeowner Defaults and Foreclosures (10 minutes) – *Chaired by Assembly Member Torres*  
*Prof. Kurt Eggert – Chapman Univ. School of Law*
- IV. The California Foreclosure Process: Are Legal Obligations and Industry Standards Effective To Ensure Accuracy, Fairness and Efficiency? (60 minutes) – *Chaired by Assembly Member Feuer*  
*Robin Wright, Managing Partner, Wright, Finlay & Zak – California Mortgage Bankers Association*  
*Mike Belote – United Trustees Association*  
*Preston DuFauchard, Commissioner – California Department of Corporations*  
*Lisa Sitkin, Staff Attorney – Housing and Economic Rights Advocates*

- V. Is Further Action Necessary For Loan Modification and Other Loss Mitigation Strategies To Stem The Number of Foreclosures? (60 minutes) – *Chaired by Assembly Member Eng*

*Faith Schwartz, Executive Director – Hope Now Alliance*

*Preston DuFauchard, Commissioner – California Department of Corporations*

*Paul Leonard, California Director – Center for Responsible Lending*

- VI. State Use of Federal "Hardest Hit" Funds For Distressed Borrowers: Can California Programs Contribute Significantly To Foreclosure Relief? (30 minutes) – *Chaired by Assembly Member Torres*

*Steven Spears, Executive Director and Diane Richardson, Dir. of Legislation – California Housing Finance Agency*

*Fr. Thomas Frank, Pastor, St. Bridget's Catholic Church and Yvonne Mariajimenez,*

*Deputy Director, Neighborhood Legal Services of Los Angeles County – One LA-IAF*

*Lori Gay, Executive Director – Los Angeles Neighborhood Housing Services*

- VII. Public Comment (10 minutes) – *(Chaired by Assembly Member Torres)*

- VIII. Concluding Remarks by Chairs and other members (3 minutes)



Monday, March 14, 2011  
State Capitol, Room 444  
1:30 p.m.

“Keep Your Home California Program”

Joint Oversight Hearing of the  
Assembly Committee on Housing and Community Development and  
Assembly Committee on Banking and Finance  
Norma J. Torres and Mike Eng, Chairs

I. Introduction and Welcome

II. California Foreclosure and Housing Outlook

*Mark Fleming, Chief Economist – CoreLogic*

III. Update on the Keep Your Home California Program

*Steve Spears, Executive Director – California Housing Finance Agency  
(CalHFA)*

IV. The Role of the Government-Sponsored Enterprises in the Hardest Hit Program  
(Eng)

*Edward DeMarco, Acting Director (invited to participate) – Federal Housing  
Finance Agency*

V. Local Innovation Recipients

*Yvonne Mariajimenez, Deputy Director – Neighborhood Legal Services of Los  
Angeles-One L.A.-Keeping Your Home Los Angeles*

*Gabe del Rio, Senior Vice President of Lending and Homeownership Community  
Housing Works – Community Second Mortgage Principal Reduction Program*

VI. Servicers Feedback on KYHC Program

*Dave Little, Senior Vice President Retail Financial Services Organization – JPMorgan Chase & Company*

*Mark Malovos, Senior Vice President Home Retention Products Development – Bank of America*

*Bill Merrill, Senior Vice President of Default and Retention Operations – Wells Fargo*

*Bryan Bolton, Senior Vice President of Loss Mitigation – Citibank*

VII. Stakeholder Perspective

*Preeti Vissa, Community Reinvestment Director – The Greenlining Institute*

*Jim Lowrey, Deputy Secretary Farm and Home Loan Division – California Department of Veterans Affairs*

VIII. Public Comment

Wednesday, March 23rd, 2011  
State Capitol, Room 3191  
1:30 PM – 4:30 PM

THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION  
ACT: INITIAL REACTIONS, INITIAL STEPS, AND LIKELY IMPACTS

JOINT INFORMATIONAL HEARING OF THE  
ASSEMBLY COMMITTEE ON BANKING & FINANCE AND THE  
SENATE COMMITTEE ON BANKING & FINANCIAL INSTITUTIONS

Assemblyman Mike Eng and Senator Juan Vargas, Chairs

I. Welcome and Opening Remarks – *Chairmen Vargas and Eng*

II. Overview of Dodd-Frank

*Joe Gabai, Partner – Morrison & Foerster*

III. Impact of Dodd-Frank on California's Financial Laws: Perspectives of California  
Financial Regulators

How Will Dodd-Frank Affect Your Department, Your Licensees, and the  
Consumers Who Obtain Financial Services From Your Licensees? What Changes  
to California Law Are Necessary to Reflect Dodd-Frank?

*Bill Haraf, Commissioner – Department of Financial Institutions*

*Preston DuFauchard, Commissioner – Department of Corporations*

*Jeff Davi, Commissioner – Department of Real Estate*

*Bob Clark, Director – Office of Real Estate Appraisers*

IV. Impact of Dodd-Frank on Federal Pre-Emption: Perspectives from the Attorney  
General

How Have Pre-Emption Rules Changed Under Dodd-Frank? What Impacts Will  
Those Changes Have? Are California Law Changes Necessary or Recommended  
to Reflect These Changes?

*Kathrin Sears, Supervising Deputy Attorney General – California Department of  
Justice*

V. Consumer Group Perspectives

What Provisions of Dodd-Frank Will Be Most Significant To Consumers? Do You Recommend Changes to California Law as a Result of Dodd-Frank?

*Gail Hillebrand, Senior Attorney – Consumers Union*

*Alan Fisher, Executive Director – California Reinvestment Coalition*

*Paul Leonard, California Director – Center for Responsible Lending*

*Kurt Eggert, Professor of Law – Chapman University*

V. Industry Perspectives

What Provisions Of Dodd-Frank Will Have the Greatest Impact on Your Industry? Do you Recommend Changes to California Law as a Result of Dodd-Frank?

*Ken Bentsen, Executive Vice President, Public Policy and Advocacy – Securities Industry and Financial Markets Association*

*John Courson, President and Chief Executive Officer – Mortgage Bankers Association*

*Fred Kreger, Vice President, Chair of Government Affairs – California Association of Mortgage Professionals*

*Richard Sanborn, President and Chief Executive Officer – Seacoast Commerce Bank, on behalf of the California Bankers Association*

*Stephen Andrews, President and Chief Executive Officer – Bank of Alameda, on behalf of the California Independent Bankers Association*

VI. Public Comment

VIII. Closing Remarks and Next Steps – Chairmen Eng and Vargas

January 9, 2012  
State Capitol, Room, 444  
2:00 p.m.

California Finance Lender's Law: Consumer Protection and Potential Reforms.

Informational Hearing of the Assembly Banking & Finance Committee  
Assemblyman Mike Eng, Chair

I. Opening Remarks:

*Assemblymember Mike Eng, Chair*  
*Committee members*

II. Overview of California Finance Lenders Law.

*Jan Owen, Commissioner – Department of Corporations*

III. Industry Commentary

*Joanne Bettencourt on behalf of Equal Access Auto Lenders of California.*

*Oscar Rodriguez, COO – 1-800 Loan Mart*

*Joe Lang on behalf of Community Loans of America*

IV. Consumer Concerns Relating to Products Offered by CFL Licensees.

*Paul Leonard, California Director – Center for Responsible Lending*

*Andrea Luquetta, Policy Advocate – California Reinvestment Coalition.*

V. Pilot Program for Affordable Credit-Building Opportunities.

*James Gutierrez, CEO – Progreso Financiero*

VI. Public Comment