

2011

Summary of Legislation 2011

Assembly Banking and Finance Committee

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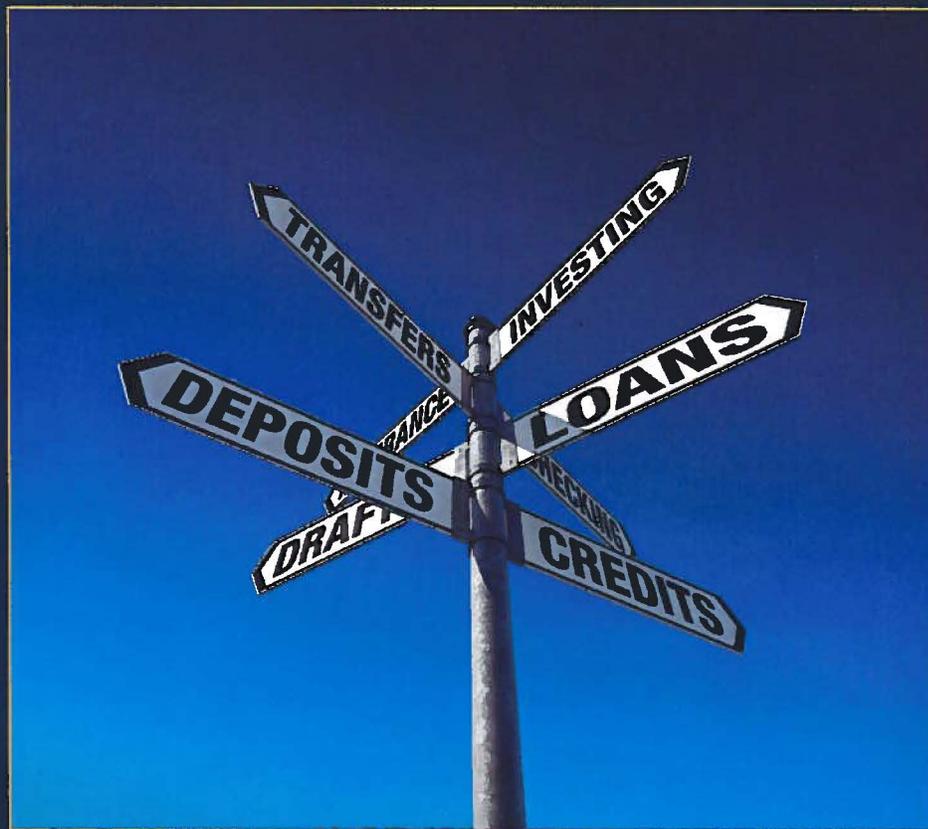
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Summary of Legislation 2011

Mike Eng, Chair
Katcho Achadjian, Vice Chair



NON-CIRCULATING

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2011

Members:

Charles Calderon
Nathan Fletcher
Felipe Fuentes
Mike Gatto
Diane Harkey
Roger Hernández

Ricardo Lara
Mike Morrell
Henry T. Perea
Norma Torres

Committee Staff:

Mark Farouk, Chief Consultant
Kathleen O'Malley, Consultant
Tiffany Morrison, Committee Secretary
Peter Renevitz, Minority Consultant

ASSEMBLY BANKING AND FINANCE COMMITTEE

Summary of Legislation

2011

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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: 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: 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: Senate Judiciary 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: 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

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

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: Senate Banking and Financial Institutions

SB 931 (Evans) Payroll cards

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

Status: Vetoed by Governor

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: 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

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: 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: 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: Assembly Banking and Finance 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: 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: Assembly Banking and Finance Committee

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 82, 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 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 (Furitani) 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

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

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 Perez) 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

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

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 - 1:30 p.m.
State Capitol, Room 444

“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, Chair

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

VI. 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

VII. Public Comment

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