

2010

## 2009-2010 Summary of Legislation

Assembly Banking and Finance Committee

Follow this and additional works at: [http://digitalcommons.law.ggu.edu/caldocs\\_assembly](http://digitalcommons.law.ggu.edu/caldocs_assembly)

 Part of the [Legislation Commons](#)

---

### Recommended Citation

Assembly Banking and Finance Committee, "2009-2010 Summary of Legislation" (2010). *California Assembly*. Paper 364.  
[http://digitalcommons.law.ggu.edu/caldocs\\_assembly/364](http://digitalcommons.law.ggu.edu/caldocs_assembly/364)

This Committee Report is brought to you for free and open access by the California Documents at GGU Law Digital Commons. It has been accepted for inclusion in California Assembly by an authorized administrator of GGU Law Digital Commons. For more information, please contact [jfischer@ggu.edu](mailto:jfischer@ggu.edu).

# 2009 – 2010 Summary of Legislation



*Mike Eng, Chair  
Roger Niello, Vice Chair*

*Members:*

<i>Green Evans</i>	<i>Tony Mendoza</i>
<i>Paul Fong</i>	<i>Pedro Nava</i>
<i>Elipse Fuentes</i>	<i>Ira Ruskin</i>
<i>Ed Gaines</i>	<i>Norma Torres</i>
<i>Liane Harkey</i>	<i>Van Tran</i>

*Committee Staff:*

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

**Table of Contents****Responses to Housing Crisis**

AB 260 (Lieu) Lending .....	1
AB 329 (Feuer) Reverse mortgages.....	1
AB 764 (Nava) Real estate brokers .....	1
AB 919 (Nava) Mortgages: information and recordation .....	2
AB 957 (Galgiani) Residential real estate transfers: title insurance: escrow companies .....	2
AB 1160 (Fong) Contracts: translation.....	2
AB 1588 (Bass, Nava, Lieu) Monitored Mortgage Workout Program.....	2
AB 1639 (Nava, Bass, Lieu) Facilitated Mortgage Workout Program.....	3
AB 1720 (Galgiani) Buyer's Choice Act.....	3
AB 2016 (Torres) Common interest developments: requests for notices of default.....	3
AB 2024 (Blumenfield) Loan Modification .....	3
AB 2189 (Ma) Contracts: translations.....	3
AB 2236 (Monning) Mortgages: notices to the borrower.....	4
AB 2291 (Fletcher) Mortgages: impound accounts.....	4
AB 2325 (Lieu) Mortgage foreclosure consultants: loan audits.....	4
AB 2347 (Feuer) Mortgage defaults: secondary public financing.....	4
AB 2653 (Beall) Residential property: transfer of mortgage.....	4
AB 2677 (Fuentes) Residential mortgage loans: foreclosure procedure.....	5
AB 2678 (Fuentes) Mortgages: notice of sale.....	5

AJR 20 (Caballero) The Federal Housing Opportunity and Mortgage Equity Act .....	5
AJR 23 (De Leon) Economic crisis .....	5
HR 21 (Jones) Relative to financial institution divestiture .....	5
SB 94 (Calderon) Mortgage loans .....	6
SB 127 (Calderon) Mortgages .....	6
SB 306 (Calderon) Real property transactions .....	6
SB 633 (Wright) Mortgages: impound accounts .....	6
SB 660 (Wolk) Reverse mortgages .....	7
SB 931 (Ducheny) Mortgages: deficiency judgments .....	7
SB 1221 (Calderon) Mortgages: notice of sale .....	7
SB 1275 (Leno) Mortgages: foreclosures .....	7

### **Consumer Loans**

AB 377 (Mendoza) Deferred deposit transactions .....	8
AB 545 (Salas) Deferred deposit transactions .....	8
AB 2511 (Skinner) Deferred deposit transactions: recipients of Unemployment benefits .....	8
AB 1146 (Florez) Finance lenders .....	8

### **Pawnbrokers**

AB 1357 (Coto) Pawnbrokers .....	9
----------------------------------	---

### **Credit**

AB 365 (Ammiano) Consumer Overdraft Protection Fair Practices Act .....	9
AJR 18 (Lieu) Credit card reform .....	9

**Community Investments**

AB 2581 (Bradford) Banking development districts ..... 10

**Regulatory Reform**

AB 33 (Nava) Financial services ..... 10

AB 34 (Nava) Real estate, finance lender, and residential mortgage  
lender licenses: mortgage loan originators ..... 10

AB 1268 (Gaines) Financial institutions ..... 10

AB 2257 (Nava) Financial services ..... 10

AB 2789 (Committee on Banking & Finance) Money transmissions ..... 11

SB 36 (Calderon) Real estate, finance lender, and residential mortgage  
Lender licenses: mortgage loan originators ..... 11

SB 1137 (Committee on Banking, Finance & Insurance) Mortgage lending . 11

**Financial Literacy**

AB 550 (Lieu) California Financial Literacy Initiative ..... 12

AB 2457 (Salas) California Financial Literacy Fund ..... 12

**State and Local Investments**

AB 1156 (Nava) State and local surplus funds: investments ..... 13

SB 1344 (Kehoe) Local agency investments ..... 13

**Credit Counseling & Debt Settlement**

AB 350 (Lieu) Debt management and settlement ..... 14

**Personal Information**

AB 811 (John A. Perez) Identification documents ..... 14

## **Escrow**

SB 204 (Benoit) Financial transactions: escrow agents: exchange facilitators .....	15
SB 1223 (Calderon) Escrow agents .....	15
SB 1363 (Runner) Escrow agents .....	15

## **Corporations**

AB 161 (Adams) Corporations: notices and reports .....	16
AB 285 (Tran) Corporations: electronic transmissions .....	16
AB 991 (Silva) Corporations: NASDAQ: national securities exchange .....	16
AB 1233 (Silva) Nonprofit and consumer cooperative corporations: Nonprofit medical associations .....	17
AB 2158 (Harman) Statutory close corporations .....	17
AB 2281 (Miller) Corporate disclosures .....	17

## **Miscellaneous**

AB 401 (Ruskin) Financial institutions: finance lenders: exemptions .....	18
AB 1059 (Silva) Bankruptcy .....	18
AB 1075 (Nava) Financial Institutions .....	18
AB 1548 (Committee on Banking & Finance) Payment instruments .....	18
AB 1549 (Committee on Banking & Finance) Judgment liens: priority .....	19
AB 1550 (Committee on Banking & Finance) Department of Water Resources: refunding bonds .....	19
AB 1566 (Committee on Banking & Finance) Disclosures .....	19
AB 2288 (Blakeslee) Issuers of securities: real estate brokers: hard money .....	20
SB 116 (Calderon) State warrants .....	20

SB 826 (Committee on Governmental Organization) General Obligation  
Bonds ..... 20

SB 1155 (Dutton) Capital access companies ..... 20

**Informational Hearings**

Pages ..... 21-22

**ASSEMBLY BANKING & FINANCE COMMITTEE**  
**2009 – 2010 Legislative Report**

**Responses to Housing Crisis**

**AB 260 (Lieu) - Lending.**

This bill enacts various provisions with respect to higher-priced mortgage loans, as defined, that are originated on or after July 1, 2010. Specifically, this bill among other things: provides that a licensed person shall not make any false, deceptive, or misleading statement or representation; requires a mortgage broker to receive the same compensation for providing mortgage brokerage services whether paid by a lender, borrower, or a third party; and prohibits a mortgage broker from steering a borrower to accept a loan at higher cost.

Status: Chaptered by the Secretary of State, Chapter 629, Statutes of 2009

**AB 329 (Feuer) - Reverse mortgages.**

This bill amends California reverse mortgage law to strengthen existing counseling and cross-selling provisions and requires lenders to provide the borrower with a checklist prior to counseling that highlights the risks and alternatives to reverse mortgages.

Status: Chaptered by the Secretary of State, Chapter 236, Statutes of 2009

**AB 764 (Nava) - Real estate brokers.**

This bill would have prohibited any person who performs loan modification services to claim, charge, receive, or collect a fee paid for by the borrower for loan modification agreements until the terms of the loan have been modified. The violation of those restrictions would be a public offense and subject the violator to a fine, imprisonment, or both.

Status: Vetoed by the Governor



**AB 919 (Nava) - Mortgages: information and recordation.**

Required a rider to be attached to a mortgage or deed of trust that provides information on the participants of a mortgage transaction. Specifically, this bill: Required that the name and license number, if applicable, shall be disclosed on a rider attached to a mortgage or deed of trust that lists the following: a) Appraiser; b) Lender; c) Loan originator; and, d) Real estate broker and provides that a mortgage or deed of trust that is secured by residential real property that does not have the attached rider shall be void. This bill was later gut and amended to address an issue related to shareholder approval of corporate political contributions.  
Status: Failed passage in Senate Banking, Finance & Insurance Committee on June 16, 2010

**AB 957 (Galgiani) - Residential real estate transfers: title insurance: escrow companies.**

This bill prohibits a seller of residential real property from requiring a buyer to purchase title insurance or escrow services, in connection with the sale of a property, from a company chosen by the seller. This bill limits its provision to properties improved by four or fewer dwelling units purchased at a foreclosure sale. The provisions of the bill sunset on January 1, 2105.  
Status: Chaptered by the Secretary of State, Chapter 264, Statutes of 2009

**AB 1160 (Fong) - Contracts: translation.**

This bill requires a financial institution that negotiates a contract in one of five specified languages to provide the consumer with a summary of loan terms translated into the language in which the contract was originally negotiated.  
Status: Chaptered by the Secretary of State, Chapter 274, Statutes of 2009

**AB 1588 (Bass, Nava, Lieu) - Monitored Mortgage Workout Program.**

Established a facilitated Mortgage Workout Program (MWP) for borrowers facing foreclosure whereby a borrower could request to participate in conciliation sessions with their lender to examine mortgage loan modification options or foreclosure alternatives  
Status: Died in Assembly Banking & Finance Committee

**AB 1639 (Nava, Bass, Lieu) - Facilitated Mortgage Workout Program.**

Established a facilitated Mortgage Workout Program (MWP) for borrowers facing foreclosure whereby a borrower could request to participate in mediation with their lender to examine mortgage loan modification options or foreclosure alternatives  
Status: Failed passage on the Assembly Floor on June 3, 2010

**AB 1720 (Galqiani) - Buyer's Choice Act.**

This bill would amend the Buyer's Choice Act to add short sales, require sellers to provide a specific disclosure form to borrowers to describe their rights under the Buyer's Choice Act, and prescribe specific actions which must be taken by buyers and sellers in specific circumstances.  
Status: Failed passage in Senate Banking, Finance & Insurance Committee on June 16, 2010

**AB 2016 (Torres) - Common interest developments: requests for notices of default.**

Allows a homeowner's association (HOA) to record one notice with a county recorder against all properties with a trustee's deed upon sale in a Common Interest Development (CID). Specifically, this bill provides that a request by HOAs for notification of a trustee's deed upon sale does not constitute a request for a document that either effects or evidences a transfer of encumbrance of an interest in real property or that releases or terminates any interest, right or encumbrance of an interest in real property.  
Status: Chaptered by the Secretary of State, Chapter 133, Statutes of 2010

**AB 2024 (Blumenfield) - Loan Modification.**

Provided that any lender or servicer that rejects a loan modification request shall respond to the borrower making the request within 7 days via certified mail with the specific reasons why the request was rejected. Additionally required that the response must comply with certain language translation requirements.  
Status: Held in Assembly Banking & Finance Committee

**AB 2189 (Ma) - Contracts: translations.**

Required a supervised financial organization that negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean to translate loan modification agreements if negotiated in one of the 5 languages.  
Status: Held in Assembly Banking & Finance Committee

**AB 2236 (Monning) - Mortgages: notices to the borrower.**

Required a mortgagee, trustee, or beneficiary, or an authorized agent to include on all notices informing the borrowing that he or she has failed to make a minimum payment or a full payment when due, the name and contact information, including address and telephone number of the person or entity that has legal authority to modify the terms and conditions of the borrower's loan.

Status: Held in Assembly Banking and Finance Committee

**AB 2291 (Fletcher) - Mortgages: impound accounts.**

Under existing law, financial institutions that make specified mortgage loans are required to pay at least 2% interest on amounts received in advance for payment of taxes and assessments on the property, insurance, or other purposes related to the property. This bill would specify that these purposes include insurance proceeds received by the lender for payment for repairs or rebuilding of the property after a catastrophic loss.

Status: Held in Assembly Banking and Finance Committee

**AB 2325 (Lieu) - Mortgage foreclosure consultants: loan audits.**

Requires a foreclosure consultant that provides mortgage loan audits to register with the Department of Justice (DOJ).

Status: Chaptered by the Secretary of State, Chapter 596, Statutes of 2010

**AB 2347 (Feuer) - Mortgage defaults: secondary public financing.**

Provides that if a property contains five or more dwelling units and a public entity holds is part of a recorded deed restriction or is a party to a recorded rent regulatory agreement on the property, the public entity may, by written notice to the trustee, postpone the sale date by no more than 60 days. Specifically, this bill: Specifies that the ability to postpone the sale may only be exercised one time, by one public entity.

Status: Chaptered by Secretary of State, Chapter 597, Statutes of 2010

**AB 2653 (Beall) - Residential property: transfer of mortgage.**

Provided that when the ownership of a mortgage or deed of trust on residential real property is transferred to another person, that person shall provide, upon request of the borrower, the price paid for the indebtedness.

Status: Held in Assembly Banking and Finance Committee

**AB 2677 (Fuentes) - Residential mortgage loans: foreclosure procedure.**

Would prohibit the mortgagee, trustee, beneficiary, or authorized agent from giving notice of sale if the mortgagee, trustee, beneficiary, or authorized agent is currently in negotiations to modify the existing loan. This bill was later amended out of the committee's jurisdiction to address issues related to graffiti abatement.

Status: Gut & Amended out of Assembly Banking & Finance Committee

**AB 2678 (Fuentes) - Mortgages: Notice of sale.**

Made changes related to a notice of sale during the foreclosure process. Specifically, this bill: Prohibited a mortgagee, trustee, beneficiary, or authorized agent from giving notice of sale if the mortgagee, trustee, beneficiary, or authorized agent is currently in negotiations to modify the existing loan. Provided that if sale proceedings have been postponed, the borrower shall receive a new notification of the notice of sale before the date of the actual sale. Repealed a duplicative provision in law.

Status: Failed passage in Assembly Banking & Finance Committee on April 19, 2010

**AJR 20 (Caballero) - The federal Housing Opportunity and Mortgage Equity Act.**

Urged the Congress to enact H.R. 230 to provide all homeowners, including those in California, the opportunity to refinance their current home loans with a lower interest rate and to assist qualified homebuyers with mortgage financing.

Status: Held in Assembly Banking and Finance Committee

**AJR 23 (De Leon) - Economic crisis.**

Urged the United States Congress and the federal administration to work with the Governor and Legislature of California to provide federal loan guarantees, flexibility with respect to certain programs, and certain funding levels for vital programs.

Status: Held in Assembly Rules Committee

**HR 21 (Jones) - Relative to financial institution divestiture.**

Urged the State of California and local governments to explore the potential divestiture of all financial interests in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts that include temporary moratoriums on foreclosures, renegotiation of mortgage principles to reflect current values, and good faith negotiations with mortgagees.

Status: Held in Assembly Banking and Finance Committee

### **SB 94 (Calderon) - Mortgage loans.**

This bill prohibits persons from charging advance fees to borrowers in connection with a loan modification, and requires those who wish to charge a fee for loan modification services to provide a notice to borrowers regarding other options available to the borrower.

Status: Chaptered by the Secretary of State, Chapter 630, Statutes of 2009

### **SB 127 (Calderon) - Mortgages.**

This bill requires a mortgagee or trustee to make specified disclosures on an Internet web site or in a 24-hour telephone recording at least once a week before the scheduled sale of a property. This bill (1) requires a beneficiary to provide an opening bid to a trustee at least one week prior to the first scheduled sale date, and (2) require a trustee to provide a list of liens and encumbrances on a foreclosed property and to charge a reasonable fee for that information, as specified.

Status: Gut & Amended out of Assembly Banking & Finance Committee

### **SB 306 (Calderon) - Real property transactions.**

This bill enacts four separate provisions relating to real property transactions. This bill enacts technical and clarifying changes to SB 1137 (Perata, Corbett, Machado), Chapter 69, Statutes of 2008, which required, among other things, that a lender or servicer contact a borrower at least 30 days prior to filing a Notice of Default (the first step in the non-judicial foreclosure process), and that tenants receive notice that their rental property is in foreclosure; establishes a minimum time period in which a payoff demand statement must be valid and creates a short-pay demand agreement; clarifies the coverage of the Escrow Agents' Fidelity Corporation; and requires that the notice of sale of real property must be posted 20 days prior to the date of the sale.

Status: Chaptered by the Secretary of State, Chapter 43, Statutes of 2009

### **SB 633 (Wright) - Mortgages: impound accounts.**

This bill creates two new exceptions to the law that prohibits persons from requiring an impound or trust account as a condition of a real property sales contract, or a mortgage or deed of trust on single-family, owner-occupied real property.

Status: Chaptered by the Secretary of State, Chapter 57, Statutes of 2009

### **SB 660 (Wolk) - Reverse mortgages.**

This bill imposed a duty of honesty, good faith, and fair dealing on any lender, broker, person, or entity who recommends the purchase of a reverse mortgage to a borrower in anticipation of financial gain. This bill additionally required the lender to provide a specified checklist to a mortgage loan applicant prior to their mandatory counseling session. That checklist must be signed by both the counselor and prospective borrower and returned to the lender prior to the approval of a loan application.

Status: Failed passage in Assembly Banking & Finance Committee on July 1, 2010

### **SB 931 (Ducheny) - Mortgages: deficiency judgments.**

Provides that in the case of a short sale on residential real property, the holder of the first mortgage or deed of trust shall fully discharge any remaining borrower's indebtedness following the sale when the sale has been agreed to in writing. Additionally, nothing shall limit the ability of the holder of the first deed of trust or first mortgage to seek damages, or use existing rights or remedies in those cases where the homeowner has committed fraud or waste in connection with the sale of the real property.

Status: Chaptered by the Secretary of State, Chapter 701, Statutes of 2010

### **SB 1221 (Calderon) - Mortgages: notice of sale.**

Allows a trustee to notice the sale of a property in non-judicial foreclosure approximately five days earlier by allowing a Notice of Sale to be given 85 days, instead of three months, after the filing of a Notice of Default.

Status: Chaptered by the Secretary of State, Chapter 180, Statutes of 2010

### **SB 1275 (Leno) - Mortgages: foreclosures.**

This bill imposed new requirements on loan servicers seeking to foreclose on loans secured by owner-occupied residences, and provided for remedies to borrowers in cases where the servicer fails to adhere to notification and related requirements associated with the foreclosure process.

Status: Failed passage on the Assembly Floor on August 30, 2010

# Consumer Loans

## **AB 377 (Mendoza) - Deferred deposit transactions.**

This bill would increase the maximum value of a payday loan from \$300 to \$500 and would permit a payday loan customer to rescind the transaction no later than the end of the next business day. This bill would provide that a customer may elect to repay a loan using an extended repayment plan which includes at least four installments and specifies other related provisions, as noted. Under this bill, payday loan lenders would be required to pay a five-cent fee for each payday loan transaction to the Department of Corporations to be used for financial literacy education programs.

This bill would require a lender who provides a payday loan over the Internet to give the required notices and written agreement to a customer electronically and would revise advertising requirements to specify that the restrictions apply also to advertising on the Internet. This bill also contains provisions concerning notice and licensing-related requirements.

Status: Held in Senate Judiciary Committee

## **AB 545 (Salas) - Deferred deposit transactions.**

Would have authorized the commissioner of the Department of Corporations, by contract with a vendor or service provider or otherwise, to develop and implement a system that enables a licensee to receive specified information regarding a consumer's history with deferred deposit transactions.

Status: Held in Assembly Banking and Finance Committee

## **AB 2511 (Skinner) - Deferred deposit transactions: recipients of unemployment benefits.**

Prohibits a deferred deposit transaction from being made to a person receiving unemployment benefits unless the interest charged for the transaction does not exceed a 36% annual percentage rate.

Status: Held in Assembly Banking and Finance Committee

## **SB 1146 (Florez) - Finance lenders.**

This bill establishes the Pilot Program that would allow licensees under the California Finance Lender Law to participate in the pilot program involving unsecured consumer loans less than \$2,500 until January 1, 2015.

Status: Chaptered by the Secretary of State, Chapter 640, Statutes of 2010

## **Pawnbrokers**

### **AB 1357 (Coto) - Pawnbrokers.**

This bill changed the maximum allowable rates that may be charged by pawnbrokers on loans over 90 days to 2.5 percent on the remaining unpaid balance (rather than the existing stair-step series of percentages that rise from one percent to 2.5 percent depending upon the size of the unpaid balance).

Status: Vetoed by the Governor

## **Credit**

### **AB 365 (Ammiano) - Consumer Overdraft Protection Fair Practices Act.**

Established the Consumer Overdraft Protection Fair Practices Act, which among other things, prohibited certain overdraft charges and authorizations by state chartered banks and credit unions. Defined "Overdraft protection fee" as any fee or charge imposed by a financial institution, in connection with a customer's account on which checks or other debits are paid by the financial institution, to cover the payment on a check or debit transaction for which there are insufficient funds in the customer's account.

Status: Held in Assembly Banking and Finance Committee

### **AJR 18 (Lieu) - Credit card reform.**

This measure would call on Congress and the President of the United States to work together in enacting credit card reforms to protect consumers from unfair credit card practices. This measure was gut and amended to pertain to supporting federal legislative efforts to reduce-or eliminate discrimination against same-sex couples in social- security benefits.

Status: Gut & Amended out of Assembly Banking & Finance Committee

## **Community Investment**

### **AB 2581 (Bradford) - Banking development districts.**

Established a Banking Development District program within the Department of Financial Institutions, which would encourage the establishment of bank or credit union branches and/or new bank services in specially designated geographic locations where there is a need for banking services.

Status: Vetoed by the Governor



# Regulatory Reform

## **AB 33 (Nava) - Financial services.**

This bill consolidated the three state financial regulatory and enforcement agencies into a single agency called the Department of Financial Services (DFS).

Specifically, the bill: Abolished the Department of Corporations, Department of Real Estate, Department of Financial Institutions and Office of Real Estate Appraisers and transferred their powers and responsibilities to DFS. AB 33 replaced the commissioners of each agency with a single commissioner of financial services and specified that licensing fees and other revenue sources to existing funds would continue to be used solely for the purposes of each fund.

Status: Gut & Amended out of Assembly Banking & Finance Committee

## **AB 34 (Nava) - Real estate, finance lender, and residential mortgage lender licenses: mortgage loan originators.**

This bill would bring California's Real Estate Law, Finance Lenders Law, and Residential Mortgage Lending Act into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (known as the SAFE Act) by requiring the licensure of mortgage loan originators beginning August 1, 2010.

Status: Gut & Amended out of Assembly Banking & Finance Committee

## **AB 1268 (Gaines) - Financial institutions.**

This bill reorganizes and consolidates provisions of the Financial Code administered by the Department of Financial Institutions (DFI), by moving the powers and authority of the Commissioner of Financial Institutions into one chapter of the Financial Code and consolidating other laws that are applicable to all of DFI's licensees into one body of law.

Status: Chaptered by the Secretary of State, Chapter 532, Statutes of 2010

## **AB 2257 (Nava) - Financial services.**

Created the Department of Financial Services, replacing the Department of Corporations, Department of Financial Services and the some operations of the Department of Real Estate.

Status: Held in Assembly Banking and Finance Committee

**AB 2789 (Committee on Banking & Finance) - Money transmission.**

Creates the Money Transmission Act. Repeals the Transmitters of Money Abroad Law, the Issuers of Payment Instruments Law and the Issuers of Traveler's check law and creates a new unitary law, the Money Transmission Act.

Status: Chaptered by the Secretary of State, Chapter 612, Statutes of 2010

**SB 36 (Calderon) - Real estate, finance lender, and residential mortgage lender licenses: mortgage loan originators.**

This bill brings California Real Estate Law, Finance Lenders Law, and Residential Mortgage Lending Act into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act) by requiring those engaging in mortgage loan origination activities to obtain a license from Department of Corporations after meeting specified requirements, or if a real estate licensee, obtain a license endorsement from the Department of Real Estate after meeting specified requirements.

Status: Chaptered by the Secretary of State, Chapter 160, Statutes of 2009

**SB 1137 (Committee on Banking, Finance & Insurance) - Mortgage lending.**

Makes several technical changes to the statutes enacted to conform to the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). Specifically, this bill provides that a California Finance Lender (CFL) that employs one or more mortgage loan originators and that arranges but does not make residential mortgage loans, shall continuously maintain a minimum net worth of least \$50,000. Additionally, makes a technical correction to the current legal definition of "mortgage loan originator."

Status: Chaptered by the Secretary of State, Chapter 287, Statutes of 2010

# Financial Literacy

## **AB 550 (Lieu) - California Financial Literacy Initiative.**

This bill permitted the state controller to accept private donations to fund efforts to enhance financial literacy. Specifically, the bill: Established the financial literacy initiative in the controller's office, and the California financial literacy fund in the state treasury; authorized the controller to deposit donations from entities with no direct financial interest in any financial products into the newly created fund, required money deposited into the fund to be made available upon appropriation in the annual Budget Act, required the controller, beginning in 2011, to report to the specified committees of the Legislature annually on or before August 30 on the implementation on the initiative and any recommendations to enhance financial literacy in California.

Status: Held in Assembly Appropriations Committee

## **AB 2457 (Salas) - California Financial Literacy Fund.**

This bill would establish the California Financial Literacy Fund in the State Treasury. Specifically, this bill: Required the California Financial Literacy Fund to be administered by the State Controller. Authorized the Controller to deposit private donations into the California Financial Literacy Fund from entities with no direct financial interest in any financial products. Required private donations to be made available upon appropriation in the annual Budget Act. Required the Controller, beginning in 2012 to provide an annual summary to the chairpersons of the Assembly Committee on Banking and Finance and the Senate Committee on Banking, Finance and Insurance on the use of the funds, when appropriated. This report shall be submitted no later than August 30 each year. Enabled partnerships with the financial services community and governmental and nongovernmental stakeholders to improve Californian's financial literacy.

Status: Vetoed by the Governor

# State and Local Investments

## **AB 1156 (Nava) - State and local surplus funds: investments.**

This bill provided that community banks and credit unions be given first priority for the investment of state surplus funds and the investment of surplus funds in certificates of deposit (CDs) by local agencies. The bill also: 1) Specified that the first priority for the investment of surplus moneys, to the extent consistent with liquidity requirements and prudent management of surplus moneys, shall be in time deposits of community banks and credit unions. 2) Specified that when a local agency invests surplus moneys in CDs at financial institutions, that first priority shall be given to community banks.

Status: Held in Assembly Appropriations Committee.

## **SB 1344 (Kehoe) - Local agency investments.**

Deletes the sunset date on current law provisions that allow local agencies to invest up to 30% of surplus funds in certificates of deposit (CD) with a commercial bank, savings bank, or credit union. Additionally, provides that only a local agency with existing legal authority to make investments may invest surplus funds in CDs

Status: Chaptered by the Secretary of State, Chapter 112, Statutes of 2010

# **Credit Counseling & Debt Settlement**

## **AB 350 (Lieu) - Debt management and settlement.**

This bill would enact the Debt Settlement Service Act for the purpose of licensing debt settlement service providers. That Act would, among other things: permit providers to charge a fee of 20% of the principal amount of debt, as specified, including a 5% setup fee; exempt a person or entity licensed as a debt settlement services provider from the Check Sellers, Bill Payers, and Proraters Law, as specified; prepare a written financial analysis, and a good faith estimate on the length of time it will take to complete the program, prior to entering into an agreement with a consumer; provide that an agreement is void if the provider is not licensed, or charges a fee that is not authorized by the Act; and allow a consumer to bring a civil action, except as specified, against a provider who violates the Act and recover compensatory damages and reasonable attorney's fees and costs. This bill would become effective on January 1, 2012

Status: Held in Senate Judiciary Committee

## **Personal Information**

### **AB 811 (John A. Perez) - Identification documents.**

This bill prohibited a "check casher" from requiring a customer to use an identification card issued by the check casher, prohibited a check casher from selling any form of identification other than a card for use only at that business, and provides that the penalties for making a false Department of Motor Vehicle-style identification card, may include a jail term of up to one year.

Status: Vetoed by the Governor

# Escrow

## **SB 204 (Benoit) - Financial transactions: escrow agents: exchange facilitators.**

This bill enacts changes to the Escrow Law, relating to annual fees, audit frequency, and license surrender, and changes to the Residential Mortgage Lending Act, related to license surrender and branch office closures.

Status: Chaptered by the Secretary of State, Chapter 568, Statutes of 2009

## **SB 1223 (Calderon) - Escrow agents.**

This bill contained two relatively minor and noncontroversial provisions relating to escrow agents. Specifically, the bill allowed an auction company to act as the agent of the property seller for the purpose of directing an escrow agent to return deposits and fees to the non-winning bidders in an auction sale of a foreclosed home.

Required notification to the Department of Corporations and the Escrow Agents' Fidelity Corporation if a surety bond required of escrow licensees is cancelled, not renewed, or released.

Status: Vetoed by the Governor

## **SB 1363 (Runner) - Escrow agents.**

Required new escrow licensees, escrow managers, or any other person determined by the Commissioner of the Department of Corporations (DOC) within 12 months of receiving their license, to complete a course in escrow management conducted by DOC.

Status: Vetoed by the Governor

# Corporations

## **AB 161(Adams) - Corporations: notices and reports.**

This bill allowed a corporation, where two or more shareholders have the same address on the books of the corporation, to send a single written notice or report to the address of the shareholders. AB 161 permitted a shareholder to consent or request a single notice or report, specified that a shareholder who fails to object in writing or by telephone to the corporation within 60 days shall be deemed to have consented to receive a single notice or report, and allowed a shareholder to revoke a consent or request by a written or telephonic notice to the corporation.

Status: Held in Senate Judiciary Committee

## **AB 285 (Tran) - Corporations: electronic transmissions.**

This bill prohibits an electronic transmission by a corporation to an individual shareholder or member who is a natural person unless, in addition to current requirements for electronic transmissions, the consent given by the shareholder or member to receipt of an electronic transmission was preceded by or includes a clear written statement to the recipient of: (1) a right to have the record provided or made available on paper or in nonelectronic form; (2) whether the consent applies only to that specific transmission, to specified categories of communications, or to all communications from the corporation; and (3) the procedures the recipient must use to withdraw consent.

Status: Chaptered by the Secretary of State, Chapter 96, Statutes of 2009

## **AB 991 (Silva) - Corporations: NASDAQ: national securities exchange.**

This bill updates numerous references to various stock exchanges, markets, and regulatory bodies in the California Corporations Code and makes related technical and conforming changes.

Status: Chaptered by the Secretary of State, Chapter 131, Statutes of 2009

**AB 1233 (Silva) - Nonprofit and consumer cooperative corporations: nonprofit medical associations.**

This bill revises various provisions in the Corporations Code pertaining to the governance of nonprofit public benefit corporations, mutual benefit corporations, religious corporations, consumer cooperative corporations, and nonprofit unincorporated associations. The revisions involve directors and their titles, directors' elections and voting rights, quorum requirements, board committees and actions, third party rights, mergers and dissolutions, and private foundation restrictions.

Status: Chaptered by the Secretary of State, Chapter 631, Statutes of 2009

**AB 2158 (Hagman) - Statutory close corporations.**

This bill removes the sunset on existing provisions of law requiring an interested or common director of a corporation to disclose all material facts in transactions in which the interested or common director has a self-interest, thereby making these provisions of law permanent.

Status: Chaptered by the Secretary of State, Chapter 91, Statutes of 2010

**AB 2281 (Miller) - Corporate disclosures.**

Made changes to disclosures made by publicly traded corporations in the annual statement each company is required to file with the Secretary of State.

Status: Held in Assembly Banking & Finance Committee



## Miscellaneous

### **AB 401 (Ruskin) - Financial institutions: finance lenders: exemptions.**

This bill eliminates the sunset date on a provision of the California Finance Lenders Law, which allows tax-exempt foundations and charities to make loans for charitable program-related purposes, as specified.

Status: Chaptered by the Secretary of State, Chapter 103, Statutes of 2009

### **AB 1059 (Silva) - Bankruptcy.**

This bill makes technical changes to various code sections to eliminate and revise outdated and inaccurate references relating to federal bankruptcy law.

Status: Chaptered by the Secretary of State, Chapter 500, Statutes of 2009

### **AB 1075 (Nava) - Financial Institutions.**

This bill prohibited a state regulated bank or credit union that is a recipient of federal or state emergency economic assistance from using the money for specified purposes. Specifically, this bill: 1) Prohibited use of federal or state emergency assistance for lobbying expenditures, political contributions, hosting or sponsorship of conferences and events, use of aircraft, travel accommodations and travel expenditures, relocations and facility renovations, entertainment, holiday parties, recognition effects of similar ancillary corporate expense, and bonuses. 2) Provided that a violation is punishable by a civil penalty of at least \$100,000 per violation with penalties to be deposited in either the State Banking Account or the Credit Union Fund. 3) Required that a bank or credit union in violation of these prohibitions be precluded from accepting future emergency assistance until it has completed measures to comply with and to prevent future violations.

Status: Died in Assembly Appropriations Committee

### **AB 1548 (Committee on Banking and Finance) - Payment instruments.**

Defined the term "authorized delegate," for purposes of the Payment Instruments Law, to mean a person that a licensee designates to provide money transmission services on behalf of the licensee.

Status: Held in Senate Banking, Finance & Insurance Committee

**AB 1549 (Committee on Banking and Finance) - Judgment liens: priority.**

This bill restores the ability of judgment creditors to obtain judgment liens against the assets of a judgment debtor organization that is incorporated or registered in another state but has assets located in California. This bill eliminates the condition that a judgment lien on personal property of the judgment debtor can be obtained only if a security interest in the property could be perfected under the Commercial Code by filing a financing statement with the Secretary of State at the time the lien is created; and requires instead that the personal property against which a judgment lien is to be created be located in California, or the judgment debtor is located in the state. This bill establishes a new priority rule, whereby a security interest in personal property perfected by the filing of a financial statement or other action under the laws of another state would have priority over a California judgment lien in the same personal property.

Status: Chaptered by the Secretary of State, Chapter 153, Statutes of 2009

**AB 1550 (Committee on Banking and Finance) - Department of Water Resources: refunding bonds.**

This bill authorizes the Department of Water Resources to restructure a portion of its power supply revenue bonds, with the aim of reducing its long-term borrowing costs.

Status: Chaptered by the Secretary of State, Chapter 154, Statutes of 2009

**AB 1566 (Committee on Banking and Finance) - Disclosures.**

This bill extends the sunset date on a provision of law which describes the information a depository institution is required to provide a customer, in lieu of a cancelled check, to allow that customer to reasonably identify the items paid from that customer's account.

Status: Chaptered by the Secretary of State, Chapter 397, Statutes of 2009

**AB 2288 (Blakeslee) - Issuers of securities: real estate brokers: hard money.**

This bill implemented specific criteria for issuers involved in hard money lending. Requires an issuer engaging in hard money lending to satisfy the following, Maintain records for three years of copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions as required, establish a contractual agreement with person whom the issuer sells a limited or general partnership, limited liability company, limited liability partnership trust, joint venture, unincorporated association, or similar organization formed and operated for the primary purpose of investing in mortgage loans, contract must be signed by both parties and include a plan for the use of the invested moneys.

Status: Failed passage in Assembly Banking & Finance Committee on April 19, 2010

**SB 116 (Calderon) - State Warrants.**

This bill makes changes intended to improve the state's ability to sell registered reimbursement warrants the next time the state's fiscal situation requires a reimbursement warrant sale.

Status: Chaptered by the Secretary of State, Chapter 23, Statutes of 2009

**SB 826 (Committee on Governmental Organization) - General obligation bonds.**

This bill makes a number of technical changes to the General Obligation Bond Law to clarify the way the law applies to negotiated sales of bonds.

Status: Chaptered by the Secretary of State, Chapter 205, Statutes of 2009

**SB 1155 (Dutton) - Capital access companies.**

This bill modifies the Capital Access Company Law (CACL), bringing it into closer alignment with federal provisions used by the Small Business Administration for its licensees.

Status: Chaptered by the Secretary of State, Chapter 516, Statutes of 2010

# Informational Hearings

May 4, 2009

## **Public Financial Watchdog or Lapdog**

**Did accountants have a role in the economic collapse of the mortgage lending market and the financial markets worldwide?**

This hearing examined the role of the accounting profession in the subprime loan crisis.

June 8, 2009

## **Watchdogs over the Watchdogs**

**Who is responsible for the collapse of mortgage lending industry?**

In a follow up to the hearing, Public Financial Watchdog or Lapdog, this hearing primary focused will be on the role of the accountants subsequent to the financial collapse. Specifically, this hearing looked at two cases drawing public attention to potential improprieties by mortgage lenders and their accountants leading to the collapse of those companies and the collapse of the marketplace.

October 13, 2010

## **State of Foreclosure: A Case for New Direction**

This hearing examined existing efforts on the part of financial institutions and state and federal governments to mitigated the foreclosure crisis.

November 12, 2009

## **State of Foreclosure: Progress and Solutions**

This hearing, conducted in Los Angeles, heard testimoney from community groups and consumers on the impact of foreclosure in California. Additionally, this hearing examined the use of foreclosure mediation as a potential solution to the foreclosure crisis.

January 25, 2010

**The Evolution of Interchange Fees**

This hearing examined the role of interchange fees in the United States and other countries to determine whether these fees should or should not be further regulated.

**Hearing Materials are available at**

<http://www.assembly.ca.gov/acs/newcomframeset.asp?committee=3>