
Introduced by Senator Rosenthal

February 22, 1996

An act to add Section 2972 to the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1882, as introduced, Rosenthal. Mortgages.

Existing state law requires a creditor to make a specified disclosure to a customer who makes an initial application for a defined home equity loan. Existing federal law requires specified disclosures with regard to certain high cost home equity mortgages.

This bill would impose requirements for high-rate, high-fee mortgages, defined to mean specified home equity loans, including waiting period and a specified disclosures. The bill would provide that high-rate, high-fee mortgages may not be executed if payments on all existing debt exceed 40% of the borrower's total income, and are void under certain circumstances.

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

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

- 1 SECTION 1. Section 2972 is added to the Civil Code,
- 2 to read:
- 3 2972. (a) In addition to the requirements imposed by
- 4 federal law (the Home Ownership and Equity Protection
- 5 Act of 1994 (P.L. 103-325, Sec. 151 et seq.)), high-rate,

1 high-fee mortgages negotiated or originated in California
2 are subject to the following requirements:

3 (1) Borrowers shall be provided with a mandatory
4 waiting period of seven days following approval in which
5 to review the loan documents and seek advice before
6 signing.

7 (2) High-rate, high-fee mortgages may not be
8 executed if payments on all existing debt exceed 40
9 percent of the borrower's total income, and are void if
10 miscalculations or misstatements are made by the loan
11 officer or his or her representative or agent in order to
12 make the contract appear to satisfy this condition.

13 (3) All high-rate, high-fee mortgage loan documents
14 shall include the following statement, in bold-face type,
15 which clearly states that the borrower is entering into a
16 contract with terms that exceed general market rates.

17 "Important Notice of High Fees and Interest Rate

18 The fees or interest rate this lender wants to charge you
19 are much higher than normal. They are so high that
20 they greatly increase the risk that you will end up losing
21 your home. They also greatly increase the risk that you
22 will end up losing your equity in the home.

23 Before you sign this contract, you should look for a
24 cheaper source of credit. You should also talk to an
25 agency approved by the federal Department of
26 Housing and Urban Development to provide mortgage
27 counseling."

28

29 (4) All creditors, brokers, or their representatives or
30 agents shall provide the applicant for a high-rate, high-fee
31 mortgage with an oral disclosure of the contents of the
32 notice described in subdivision (c).

33 (b) "High-rate, high-fee mortgage," for purposes of
34 this section, means a home equity loan, as defined in
35 Section 2970, that meets either of the following
36 descriptions:

37 (1) The annual percentage rate at consummation of
38 the transaction will exceed by more than 10 percentage
39 points the yield on United States Treasury securities
40 having comparable periods of maturity on the 15th day of



1 the month immediately preceding the month in which
2 the application for the extension of credit is received by
3 the creditor.

4 (2) The total points and fees payable by the consumer
5 at or before closing will exceed the greater of 8 percent
6 of the total loan amount or four hundred dollars (\$400).

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