



The Responsible Home Buying Act

Senate Bill 1090

Bill Summary

- **Create a fiduciary responsibility to the borrower.** Mortgage brokers would have a fiduciary responsibility to borrowers, meaning an obligation to act in the borrowers best interest, and a duty to 1) act in good faith and fair dealing; 2) act in the borrower's best interest; and 3) use reasonable efforts to secure the best loan offer the borrower qualifies for given their income, credit scores, income, and other circumstances. Applicable to all loans.
- **Prohibit loan flipping.** Require lenders and brokers refinancing a loan to ensure that the new home loan provides a reasonable, tangible net benefit to the borrower. Applicable to all loans.
- **Limit prepayment penalties.** In addition to banning prepayment penalties on all subprime and nontraditional loans, SB 1090 would limit prepayment penalties on prime loans to one percent of the amount owed on the loan in the course of one year.
- **Prohibit financial incentives to steer borrowers to higher cost loans.** SB 1090 would ban broker bonuses for selling loans at a higher rate than what the borrower ordinarily qualifies for (Yield Spread Premiums). Applicable to all loans.
- **Require borrowers to be shown the best fixed-rate home loan option for which they qualify.** Lenders and brokers offering a borrower an adjustable rate mortgage would also be required to show borrowers the best fixed-rate terms for which they could qualify. Applicable only to adjustable rate loans.
- **Cap points and fees.** Limits points and fees charged to a borrower to no more than five percent of the total loan amount for loans over \$40,000 and six percent for loans under \$40,000. Third party fees are not included in the cap and up to 2 points may be excluded. Applicable to all loans.
- **Require creditors to verify a borrower's ability to repay.** Lenders and mortgage brokers must form a reasonable belief that at the time the loan is closed the borrower has the ability to make the scheduled payments including taxes and insurance associated with the loan. This general requirement is applicable to all loans.
 - For subprime and nontraditional loans, lenders and brokers would also have to (1) verify income, credit history, employment status, debt-to-income ratio, and other financial documents; and (2) consider the ability to repay the loan at the fully amortized and indexed rate. Lenders would be rebuttably presumed to have made a loan without regard for a borrower's ability to repay if the monthly payments exceed 50% of the borrower's verified monthly gross income.
- **Give DCBS rulemaking authority to identify and prohibit abusive mortgage lending practices.** In addition the above provisions, SB1090 grants DCBS rulemaking authority to "identify and prohibit unfair, deceptive, or abusive acts and practices." In determining these practices, DCBS is directed to specific federal rules and regulations as guidance.
- **Enforce the provisions through the Attorney General's office, DCBS and private right of action.** DCBS and the AG would be able to bring suit for violations of the act and would both have investigative powers. Additionally, borrowers would have a private right of action with a six year statute of limitations.