

## New Laws That May Affect REALTORS® and Their Clients

The conclusion of the first half of the 2009-10 legislative session has brought many new laws that may affect REALTORS® and their clients. Some of these laws are summarized below.

Not surprisingly in the subprime aftermath, prominently featured among the new laws is stricter regulation of the mortgage lending industry.

- **REO buyer can select escrow and title (AB 957):** Effective October 11, 2009, the Buyer's Choice Act prohibits an REO lender selling residential property up to four units from directly or indirectly requiring the buyer to purchase escrow services or title insurance from any particular company. A buyer, however, who has received written notice of the right to make an independent selection, may agree to the REO lender's escrow or title recommendations. An REO lender that violates this law can be held liable for three times the charges the buyer incurred, whereas a violation by the seller's agent may be subject to license disciplinary action. This law expires on January 1, 2015.
- **No advance fee loan modifications (SB 94):** Starting October 11, 2009, a new law prohibits anyone from claiming any compensation for negotiating or arranging a loan modification until after that person fully performs each and every service as promised. Aimed at combating loan modification scams, this ban applies to upfront fees collected by real estate agents and attorneys. The ban expires January 1, 2013. Also effective immediately, anyone who negotiates or arranges a loan modification must give the borrower a specified notice that paying a third-party for loan modification services is unnecessary. These new requirements apply to mortgage loans secured by residential property up to four units, with certain exceptions for lenders and loan servicers acting on their own behalf. Violations can be penalized by, among other things, a \$10,000 fine plus one-year imprisonment for individuals, or a \$50,000 fine for businesses. Real estate brokers with existing Advance Fee Loan Modification Agreements reviewed by the Department of Real Estate (DRE) can no longer, as of October 11, 2009, enter into these agreements or collect advance fees. Agreements entered into and advance fees collected before October 11, 2009, are not affected.
- **Appraisal industry oversight (SB 237):** The Office of Real Estate Appraisers (OREA) will have regulatory oversight of appraisal management companies, which gained prominence after Fannie Mae and Freddie Mac adopted the Home Valuation Code of Conduct (HVCC). Starting January 1, 2010, the OREA must implement a registration system for appraisal management companies, including fingerprinting and background checks for persons with operational authority as defined. On a separate note, this law clarifies what conduct constitutes improperly influencing the appraisal process by anyone with an interest in a real estate transaction. Such prohibited conduct includes withholding or threatening to withhold an appraisal fee, withholding or threatening to withhold future appraisal business, and promising future business, promotions, or compensation.

- **Increase in homestead exemptions (AB 1046):** Coming into effect on January 1, 2010, the homestead exemption protecting a homeowner's equity from judgment creditors has been increased by \$25,000 across the board to \$75,000 for individuals, \$100,000 for married couples or family units as specified, and \$175,000 for persons over 65 years, disabled, or over 55 years with limited income as specified.
- **60-day notice to terminate tenants extended (SB 290):** Existing law generally requiring a 60-day notice to terminate month-to-month residential tenant, which was originally slated to sunset on January 1, 2010, has been extended indefinitely. A 30-day notice to terminate is sufficient if the tenant has lived in the property for less than one year, or if the landlord has sold the property and certain requirements are met as specified in the California Association of REALTORS® Notice of Termination of Tenancy form. The 60-day notice requirement does not apply to fixed-term leases, such as a one-year lease. Other laws address tenants in properties foreclosed upon.

Other significant new laws that may interest REALTORS and their clients include:

- **Landlord utilities (SB 120):** Requires certain utility companies to notify residential tenants of landlord's past due accounts and upcoming shutoffs, and allows tenants to begin service in their own names and deduct payment from rent.
- **Mobile home parks (SB 804):** Prohibits management from requiring a homeowner to use a specific broker or dealer when replacing a mobile home or manufactured home on a space in a mobile home park.
- **Low water-using plants (AB 1061):** Renders unenforceable any homeowner association (HOA) provision prohibiting landscaping with water-efficient plants in common interest developments.
- **Reverse mortgages (AB 329):** Provides new disclosure and other requirements under the Reverse Mortgage Elder Protection Act.
- **Disposal of records (AB 1094):** Shields from liability businesses that dispose of abandoned records containing personal information by shredding or erasing, and gives a legal presumption that a tenant owns records remaining on the premises after tenancy termination.
- **Plumbing fixtures (SB 407):** Provides new disclosure and other requirements for water-conserving plumbing fixtures effective on or after January 1, 2014.

*Information from the California Association of REALTORS®.*

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