

Date of Hearing: June 9, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Roger Dickinson, Chair

SB 1051 (Galgiani) – As Introduced: February 18, 2014

SENATE VOTE: 35-0

SUBJECT: Buyer's Choice Act.

SUMMARY: Extends the sunset date for the Buyer's Choice Act (BCA) from January 1, 2015 to January 1, 2019.

EXISTING FEDERAL LAW

- 1) Provides for the Real Estate Settlement Procedures Act (RESPA), which regulates transactions between buyers, sellers, and mortgagees involving “settlement services” (including title insurance and escrow services). RESPA generally requires that borrowers receive certain timely disclosures relating to the costs of those settlement services, and prohibits certain practices on the part of a mortgagee that increase the costs of settlement services. [12 U.S.C. Sec. 2601 et seq.]
- 2) Provides, under RESPA, that no seller of property that will be purchased with the assistance of a federally related mortgage loan shall require, directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company. Any seller who violates that provision is liable to the buyer in an amount equal to three times all charges made for such title insurance. [12 U.S.C. Sec. 2608]

EXISTING STATE LAW

- 1) Establishes the Escrow Law, which provides for the licensing of escrow agents by the Department of Business Oversight (DBO), and states that any person subject to the Escrow Law who violates any provision of RESPA, or any regulation promulgated thereunder, violates the Escrow Law. [Financial Code, Section 17425]
- 2) Prohibits under the BCA a seller from directly or indirectly, as a condition of receiving offers or selling residential real property to a buyer, requiring the buyer to purchase title insurance or escrow services in connection with the sale of that property from a company chosen by the seller. [Civil Code Section 1103.22(a)]
- 3) Defines “seller” as a mortgagee or beneficiary under a deed of trust who acquired title to residential real property improved by four or fewer dwelling units at a foreclosure sale, including a trustee, agent, officer, or other employee of any such mortgagee or beneficiary. The BCA states that a seller who violates the BCA shall be liable to a buyer in an amount equal to three times all charges made for the title insurance or escrow service. In addition, any person who violates this section shall be deemed to have violated his or her license law and shall be subject to discipline by his or her licensing entity. The BCA provides that a transaction shall not be invalidated solely because of the failure of any person to comply with

any provision of the Act. The BCA will sunset on January 1, 2015 unless a later enacted statute deletes or extends that date. [Civil Code Section 1103.22]

FISCAL EFFECT: None.

COMMENTS:

According to the sponsor, the Escrow Institute of California, "AB 957 was enacted to protect consumers by ensuring that they have the right to choose their own real estate service providers when purchasing foreclosed properties, and address an issue where sellers of real estate owned (REO) properties were directing and requiring the specific use of certain settlement service providers by buyers of REO properties, regardless of price or who pays for the service. The BCA provides certain protections to a buyer when purchasing residential real property improved by four or fewer dwelling units by either independently selecting their own real agent recommended by the seller, provided that a written notice of the right to make an independent selection is provided by the seller to the buyer. The real estate marketplace has shown some important improvements over the last year, but not enough to let the consumer protections in the BCA to sunset on January 1, 2015."

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Double-referral

Should this bill pass out of the Assembly Banking and Finance Committee, the measure will proceed to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

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Opposition

None on file.

Analysis Prepared by: Kathleen O'Malley / B. & F. / (916) 319-3081

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- 2) Prohibits under the BCA a seller from directly or indirectly, as a condition of receiving offers or selling residential real property to a buyer, requiring the buyer to purchase title insurance or escrow services in connection with the sale of that property from a company chosen by the seller. [Civil Code Section 1103.22(a)]
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FISCAL EFFECT: None.

COMMENTS:

According to the sponsor, the Escrow Institute of California, "AB 957 was enacted to protect consumers by ensuring that they have the right to choose their own real estate service providers when purchasing foreclosed properties, and address an issue where sellers of real estate owned (REO) properties were directing and requiring the specific use of certain settlement service providers by buyers of REO properties, regardless of price or who pays for the service. The BCA provides certain protections to a buyer when purchasing residential real property improved by four or fewer dwelling units by either independently selecting their own real agent recommended by the seller, provided that a written notice of the right to make an independent selection is provided by the seller to the buyer. The real estate marketplace has shown some important improvements over the last year, but not enough to let the consumer protections in the BCA to sunset on January 1, 2015."

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Double-referral

Should this bill pass out of the Assembly Banking and Finance Committee, the measure will proceed to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Escrow Institute of California (Sponsor)

Opposition

None on file.

Analysis Prepared by: Kathleen O'Malley / B. & F. / (916) 319-3081

Date of Hearing: June 9, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Roger Dickinson, Chair

SB 1051 (Galgiani) – As Introduced: February 18, 2014

SENATE VOTE: 35-0

SUBJECT: Buyer's Choice Act.

SUMMARY: Extends the sunset date for the Buyer's Choice Act (BCA) from January 1, 2015 to January 1, 2019.

EXISTING FEDERAL LAW

- 1) Provides for the Real Estate Settlement Procedures Act (RESPA), which regulates transactions between buyers, sellers, and mortgagees involving “settlement services” (including title insurance and escrow services). RESPA generally requires that borrowers receive certain timely disclosures relating to the costs of those settlement services, and prohibits certain practices on the part of a mortgagee that increase the costs of settlement services. [12 U.S.C. Sec. 2601 et seq.]
- 2) Provides, under RESPA, that no seller of property that will be purchased with the assistance of a federally related mortgage loan shall require, directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company. Any seller who violates that provision is liable to the buyer in an amount equal to three times all charges made for such title insurance. [12 U.S.C. Sec. 2608]

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Double-referral

Should this bill pass out of the Assembly Banking and Finance Committee, the measure will proceed to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Escrow Institute of California (Sponsor)

Opposition

None on file.

Analysis Prepared by: Kathleen O'Malley / B. & F. / (916) 319-3081

Date of Hearing: June 9, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Roger Dickinson, Chair

SB 1051 (Galgiani) – As Introduced: February 18, 2014

SENATE VOTE: 35-0

SUBJECT: Buyer's Choice Act.

SUMMARY: Extends the sunset date for the Buyer's Choice Act (BCA) from January 1, 2015 to January 1, 2019.

EXISTING FEDERAL LAW

- 1) Provides for the Real Estate Settlement Procedures Act (RESPA), which regulates transactions between buyers, sellers, and mortgagees involving “settlement services” (including title insurance and escrow services). RESPA generally requires that borrowers receive certain timely disclosures relating to the costs of those settlement services, and prohibits certain practices on the part of a mortgagee that increase the costs of settlement services. [12 U.S.C. Sec. 2601 et seq.]
- 2) Provides, under RESPA, that no seller of property that will be purchased with the assistance of a federally related mortgage loan shall require, directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company. Any seller who violates that provision is liable to the buyer in an amount equal to three times all charges made for such title insurance. [12 U.S.C. Sec. 2608]

EXISTING STATE LAW

- 1) Establishes the Escrow Law, which provides for the licensing of escrow agents by the Department of Business Oversight (DBO), and states that any person subject to the Escrow Law who violates any provision of RESPA, or any regulation promulgated thereunder, violates the Escrow Law. [Financial Code, Section 17425]
- 2) Prohibits under the BCA a seller from directly or indirectly, as a condition of receiving offers or selling residential real property to a buyer, requiring the buyer to purchase title insurance or escrow services in connection with the sale of that property from a company chosen by the seller. [Civil Code Section 1103.22(a)]
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