

Date of Hearing:

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Monique Limón, Chair

SB 1139 (Morrell) – As Introduced February 13, 2018

**SENATE VOTE:** 38-0

**SUBJECT:** Real property liens: equity lines of credit: suspend and close

**SUMMARY:** Deletes the sunset provision on the section of law that provides a procedure for the suspension and closure of a home equity line of credit.

**EXISTING LAW:**

- 1) Defines an “entitled person” as a borrower, lender in first or subordinate position, and as the escrow or title company handling a property escrow (Civil Code Section 2943).
- 2) Defines a “payoff demand statement” as a written statement, prepared in response to a written demand made by an entitled person or authorized agent, setting forth the amounts required as of the date of preparation by the beneficiary, to fully satisfy all obligations secured by the loan that is the subject of the payoff demand statement (Civil Code Section 2943).
- 3) Until July 1, 2019:
  - a) Defines “equity line of credit” as a revolving line of credit used for consumer purposes, which is secured by a mortgage or deed of trust encumbering residential real property consisting of one to four dwelling units, at least one of which is occupied by the borrower (Civil Code Section 2943.1).
  - b) Defines “suspend” as prohibiting a borrower from drawing on, increasing, or incurring any additional principal debt on his or her equity line of credit (Civil Code Section 2943.1).
  - c) Requires a beneficiary (i.e., lender) that issues a payoff demand statement in connection with an equity line of credit to include an e-mail address, fax number, or mailing address for delivery of the Borrower’s Instruction to Suspend and Close Equity Line of Credit (Civil Code Section 2943.1).
  - d) Requires a beneficiary to suspend a borrower’s equity line of credit for a minimum of 30 days, upon receipt from an entitled person of a Borrower’s Instruction to Suspend and Close Equity Line of Credit, signed by the borrower (Civil Code Section 2943.1).
  - e) Requires a beneficiary to close an equity line of credit and release or reconvey the property securing that line of credit, once the beneficiary is in receipt of a Borrower’s Instruction to Suspend and Close Equity Line of Credit and payment in accordance with the payoff demand statement (Civil Code Section 2943.1).

- f) Prescribes the form of the Borrower's Instruction to Suspend and Close Revolving Line of Credit and provides that an alternate form is acceptable, if it is made in substantially the same form as the example provided in statute. The wording of the form that is written into statute asks for the identities of the lender, borrower, and escrow or settlement agent; the property address; and the account number of the equity line of credit.

**FISCAL EFFECT:** None

**COMMENTS:**

A home equity line of credit (HELOC) is an open-end line of credit secured by the borrower's property, and the lien associated with that loan remains on the property until it is paid back. During a sales transaction, an unknowing or unscrupulous borrower could draw down from their HELOC during the escrow process or immediately after the home is sold, making the new purchaser of the property liable for the amount of the drawdown. Because the HELOC has not been fully paid off, the HELOC lender would not release its lien on the property, which triggers a cascade of additional problems.

AB 1770 (Dababneh), Chapter 206, Statutes of 2014, created a standardized process for closing a HELOC when the home securing that HELOC was in escrow. The process established by AB 1770 was designed to prevent a HELOC from becoming the liability of a subsequent homeowner. Based on information provided to committee staff, AB 1770 has worked as intended. The sponsors of AB 1770 would like to delete the sunset date in existing law to add those provisions to California law on a permanent basis.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Land Title Association (sponsor)

**Opposition**

None on file

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