

Date of Hearing:

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Monique Limón, Chair

SB 1183 (Morrell) – As Introduced February 15, 2018

SENATE VOTE: 38-0

SUBJECT: Mortgages: deeds of trust: successors in interest

SUMMARY: Exempts reverse mortgages from rules concerning successors in interest.

EXISTING LAW:

Until January 1, 2020, existing law provides for the following, after which the provisions sunset:

1. Upon notification by someone claiming to be a successor in interest that a borrower has died, requires a mortgage servicer, prior to recording a notice of default, to request from the claimant reasonable documentation of the death of the borrower and reasonable documentation of the ownership interest of the claimant. The mortgage servicer must allow a reasonable period of time for the claimant to produce the documentation, as specified. Upon receipt of this documentation, the claimant is deemed a “successor in interest.”
2. Requires a mortgage servicer to provide specified information to a successor in interest about the mortgage loan and to allow a successor in interest to apply to assume the mortgage loan and apply for a foreclosure prevention alternative.
3. Applies the rights of borrowers under the Homeowners’ Bill of Rights to successors in interest.
4. Exempts financial institutions with 175 or fewer foreclosures in California in the most recent annual reporting period from the provisions above.

FISCAL EFFECT: None

COMMENTS:

SB 1150 (Leno), Chapter 838, Statutes of 2016, established protections for successors in interest to a property with an outstanding mortgage, as described in the Existing Law section above. SB 1150 was silent on the law’s applicability to reverse mortgages, but the United Trustees Association, sponsors of this bill, state that SB 1150 was not intended to apply to reverse mortgages. Because the law does not specifically exempt reverse mortgages, mortgage servicers are currently following the provisions of SB 1150 for reverse mortgages in order to avoid negative regulatory or judicial penalties. Servicers are providing disclosures to borrowers that the reverse mortgage may be assumable or that a foreclosure prevention alternative may be available, even if these options do not apply to reverse mortgages because of federal law or other circumstances.

This bill provides an exemption for reverse mortgages from the successor in interest protections provided by SB 1150. Reverse mortgages are loans where borrowers receive payments from lenders from the equity in the borrower’s property. According to the sponsors, this technical

change is appropriate because reverse mortgages “are typically for the lives of the borrowers, and are not assumable after the death of the last surviving borrower.” This bill would prevent servicers from feeling compelled to send communications to successors in interest that do not apply to the circumstances of reverse mortgages.

REGISTERED SUPPORT / OPPOSITION:

Support

United Trustees Association (sponsor)

Opposition

None on file

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