

Date of Hearing: June 18, 2018

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Monique Limón, Chair

SB 1201 (Jackson) – As Amended April 30, 2018

**SENATE VOTE:** 39-0

**SUBJECT:** Contracts: consumer protection: residential mortgage lending

**SUMMARY:** Requires financial institutions to provide mortgage loan modification documents in one of five languages if the terms of that negotiation are conducted in Spanish, Chinese, Tagalog, Vietnamese, or Korean.

Specifically, **this bill:**

1. Requires a supervised financial organization that offers a borrower a final loan modification in writing, after negotiating the terms of that modification in Spanish, Chinese, Tagalog, Vietnamese, or Korean, to provide the borrower with a written disclosure summarizing the modified terms of the loan in the same language as the negotiation.
2. Requires a supervised financial organization that negotiates the terms of a loan or extension of credit secured by residential real property in Spanish, Chinese, Tagalog, Vietnamese, or Korean, to provide the borrower with a translated copy of either the Good Faith Estimate disclosure form or with translated copies of both the Loan Estimate and Closing Disclosure forms developed by the federal Consumer Financial Protection Bureau. Clarifies which supervised financial organizations are subject to which disclosure requirements by reference to specified provisions of federal law.
3. Requires the Department of Business Oversight (DBO) to develop translated disclosure forms for use by supervised financial organizations in complying with the requirements in Numbers 1 and 2 above.
4. Sets an operative date for the requirements in Numbers 1 and 2 above of 90 days after the issuance of forms by DBO, but in not instance before January 1, 2019.
5. Provides, under the California Residential Mortgage Lending Act (CRMLA), that if DBO issues an order revoking the license of a licensee for failure to file a certified financial statement, and if the licensee served with that revocation order files a written request for an administrative hearing within 30 days from the date the order is served, a hearing on the order must be held within 90 days of the filing. If a hearing is not held within 90 days of the filing, the order is deemed rescinded, as specified.

**EXISTING LAW:**

1. Requires a supervised financial organization that negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, whether orally or in writing, in the course of entering into a contract or agreement for a loan or extension of credit secured by residential real property, to deliver a translated disclosure document summarizing the terms of that contract or agreement

to the other party to that contract or agreement.

2. Defines a supervised financial organization as a state-chartered bank, state-chartered credit union, California Financing Law licensee, or California Residential Mortgage Lending Act licensee. Expressly exempts federally chartered depository institutions from the statute's definition.
3. Requires the Department of Business Oversight (DBO) to make translated copies of the Good Faith Estimate disclosure form available for use by supervised financial organizations to comply with the requirement described in Number 1 above.
4. Provides that a violation of the translation requirements summarized above by a supervised financial organization may result in the imposition of an administrative penalty of up to \$2,500 for a first violation, up to \$5,000 for a second violation, and up to \$10,000 for each subsequent violation.
5. Provides that if a CRMLA licensee required to obtain a financial audit fails to do so, the commissioner may cause the audit to be made by an independent certified public accountant at the licensee's expense and may summarily revoke the license of the licensee.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

According to the author, this bill has two primary purposes:

1. Expands consumer protections provided by existing law to require the same document translation services for mortgage loan modifications as exist when a mortgage is originated.
2. Adds due process protections for supervised financial organizations related to license review hearings conducted by DBO.

The author states:

*Mortgage loan and extension of credit agreements are arguably among the most daunting financial transactions that a person will make in their lifetime. This is due to their complex terminology, prepayment penalties and interest rate adjustments, words that I am sure that prior to beginning one of these transactions are words that many folks would not have been familiar with. For borrowers whose first language is not English, we can only imagine how much greater the language barrier poses to them getting a clear understanding of what they are agreeing to.*

This bill requires that supervised financial organizations, as specified, provide loan modification documents in Spanish, Chinese, Tagalog, Vietnamese, or Korean if the contract negotiations were conducted in one of those languages. The Department of Business Oversight is required to make available forms that can be used by the financial organizations to comply with this requirement. DBO may use specified forms from the Federal National Mortgage Association (aka Fannie Mae) as guidance when developing the translated documents.

In addition to the requirement to translate loan modification documents, this bill updates provisions of existing law related to mortgage disclosure forms. The Consumer Financial Protection Bureau requires lenders to provide a specified Loan Estimate form and a specified Closing Disclosure form that did not exist when California enacted the laws currently in statute. This bill updates existing law to reflect these new federal requirements.

This bill also strengthens the due process rights of CRMLA licensees related to administrative hearings. Under existing law, DBO may revoke the license of a licensee that fails to file audited financial statements. Although licensees are able to request a license review hearing once its financial statements are prepared, existing law does not provide a specified maximum time for DBO to hold the review hearing. This bill requires that DBO hold a review hearing within 90 days of a request from a licensee, as specified, or the license is automatically reinstated.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Asset Building Coalition  
California Reinvestment Coalition  
Center for Responsible Lending  
Consumers for Auto Reliability and Safety  
Consumers Union  
Department of Business Oversight  
Housing and Economic Rights Advocates  
Jubilee East Bay  
Mission Economic Development Agency  
New Economics for Women  
San Francisco Office of Financial Empowerment

##### **Opposition**

None received

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