

California Enacts Real Estate Related Legislation - Senate Bills 223 & 385

SB 223 & SB 385

To reform a system that may pressure appraisers to assess a home at a predetermined value, set by the mortgage brokers or homeowners to make a sale go through, Governor Schwarzenegger has signed into law **Senate Bill 223**.

- **SB 223** would prohibit licensed appraisers from being unduly influenced by someone with an interest in a real estate transaction or from being paid based on the value of property they evaluate.

The reason it is important to have an unbiased appraisal is because the appraiser, along with the escrow company, is an objective third party involved in the real estate transaction. The appraiser can perform an important role in protecting the homebuyer and financial institution by giving an accurate appraisal of a property's value without pressure from the parties involved.

Also signed into law affecting mortgage lenders and brokers is **Senate Bill 385**

- **SB 385** would make state-regulated mortgage lenders and brokers subject to federal guidelines on nontraditional mortgages, including notifying consumers of all risks in a clear, balanced and timely manner.

The intent of this bill is to ensure that all mortgage lenders and brokers, regardless of their regulator, are subject to the federal guidance on nontraditional mortgage product risks.

Senate Bill 385 requires all three of California's lending regulators to apply federal guidance on nontraditional and subprime mortgage lending to California's mortgage lenders and mortgage brokers. Currently, the federal guidance only covers federally-chartered and federally-insured lenders, not the state-regulated lenders who make the majority of subprime mortgages. Placing the state-regulated mortgage community under the federal guidance will ensure that mortgage lenders and brokers underwrite nontraditional and subprime loans based on the loans' fully indexed rates, not their low, introductory teaser rates, and that the lenders and brokers provide borrowers with clear, balanced, and timely explanations of their loan terms before the borrowers commit to their mortgages, not afterwards.

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