

California Association of Mortgage Brokers



TO: The Honorable Ron S. Calderon, California State Senate
FROM: Ed Smith, Jr., Vice President of Government Affairs & Industry Relations
SUBJECT: SB 36 (Calderon)
POSITION: Support with Amendments
DATE: March 26, 2009

On behalf of the California Association of Mortgage Brokers (CAMB), we respectfully support SB 36 (Calderon), with the following offered amendments.

CAMB is a nonprofit professional trade association consisting of licensed real estate brokers, salespersons, and affiliated lenders whose primary business is assisting consumers in obtaining residential and commercial real estate financing. Mortgage brokers originate the majority of all residential mortgages in California. CAMB Members subscribe to a Code of Best Practices and Ethics, pledging to uphold the highest standards of professional conduct, honesty and integrity, and to full compliance with applicable laws. CAMB supports SB 36 with amendments.

The Housing and Economic Recovery Act of 2008 signed into law by the President on July 30, 2008 requires California to adopt procedures to incorporate the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE ACT.) CAMB is a strong supporter of the intent of the SAFE ACT, the implementation of reasonable standards for the licensing of all mortgage originators to the betterment of the industry and its service to consumers.

SB 36 is well crafted legislation that addresses the implementation of the SAFE ACT under each of the three loan origination licensing paradigms currently used in California: the Real Estate Law, the Finance Lenders Law, and the Residential Mortgage Lenders Act. CAMB applauds the general consistency used towards each channel; all loan originators should meet the same licensing requirements. Our suggested changes to SB 36 relate to: 1) the revocation or denial of licenses based on intangible parameters, 2) the required Condition and Business Activity Reports, and 3) the failure to maintain grandfather clauses.

I. The revocation or denial of licenses based on intangible parameters

To receive or maintain a license endorsement under the Real Estate Law, SB 36 would require the commissioner find:

“The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the article.” (SB 36, section 10166.05(c))

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The California Association of Mortgage Brokers promotes the highest standards of professional and ethical conduct, among which are expert knowledge, accountability, fair dealing, and service to our clients and our community.

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CAMB believes that this language, taken directly from the SAFE ACT, would be improved in the State of California by offering an appeal process that would provide a mandatory review to career ending negative decisions, especially given that these decisions might be based on parameters that defy pragmatic measure.

II. The Required Condition and Business Activity Reports

The SAFE ACT and SB 36 require that:

“Each mortgage loan originator shall submit reports of condition to the Nationwide Mortgage Licensing System and Registry, and those reports shall be in the form and shall contain information as the Nationwide Mortgage Licensing System and Registry may require.” (SB 36 section 10166.08.)

In addition to that required by the SAFE ACT, SB36 requires that Department of Real Estate (DRE) Brokers provide the Commissioner with a “Business Activity Report”:

“A real estate broker who acts pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131, and who makes, arranges, or services one or more loans in a calendar year that are secured by real property containing one to four residential units, shall annually file a business activities report, within 90 days after the end of the broker’s fiscal year or within any additional time as the commissioner may allow for filing for good cause. The report shall contain within its scope all of the following information for the fiscal year, relative to the business activities of the broker and those of any other brokers and real estate salespersons acting under that broker’s supervision:” (SB 36 section 10166.07.)

CAMB is concerned that the mandatory production of two potentially duplicative reports for two separate entities will create unnecessary and substantial expense for the DRE broker. To minimize this expense, CAMB suggests that a single report be created that will meet the requirements of both the NMLS and the DRE. CAMB offers, as the DRE broker’s representative, to work with this bill’s author, the DRE, and the NMLS towards that end.

III. Failure to maintain earlier grandfather clause waivers

Original section 10166.04(b) of SB 36 offered a clause that allowed the commissioner to consider certain application requirements such as fingerprints, personal history records, and credit reports to be met when the Commissioner determined that these requirements had been fulfilled already in pre-existing licensing processes. In the current version of SB36, this waiver has been removed. As all DRE licensees have already fulfilled many of the

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above requirements, it is the opinion of CAMB that the process of resubmitting identical items will be done at substantial cost with little, if any, benefit. CAMB urges the author revisit the decision to remove original section 10166.04(b.).

CAMB supports SB 36 and feels the bill can be improved by implementing the above suggested amendments.

We appreciate your consideration of our suggestions.

cc: Aaron Read, Aaron Read & Associates
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