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New California Law (SB 931) Prohibits Deficiency Judgments on Owner Occupied and Non-Owner Occupied Short Sales

Written by admin on 26 November 2010

This new California law (SB 931) was signed by the Governor on September 30th, which takes affect from the beginning of January 2011. According to this law, any first mortgages that accept a short sale cannot obtain a deficiency judgment against a seller, whether it is owner occupied home or non-owner occupied owners.

So, the good news is that for owner occupied owners and also investors who own 1-4 units, now they don't have to worry whether lender will come after to collect the remaining balance.

Now, here's the great news – This law applies to all type of first loan whether it is a purchase money loan or refinanced loan. If a lender agrees to a short sale on first mortgage then that lender must accept the sale proceeds as their full payment and fully release the seller from any deficiency.

“SECTION 1. Section 580e is added to the Code of Civil Procedure, to read:

580e. (a) No judgment shall be rendered for any deficiency under a note secured by a first deed of trust or first mortgage for a dwelling of not more than four units, in any case in which the trustor or mortgagor sells the dwelling for less than the remaining amount of the indebtedness due at the time of sale with the written consent of the holder of the first deed of trust or first mortgage. Written consent of the holder of the first deed of trust or first mortgage to that sale shall obligate that holder to accept the sale proceeds as full payment and to fully discharge the remaining amount of the indebtedness on the first deed of trust or first mortgage. (b) If the trustor or mortgagor commits either fraud with respect to the sale of, or waste with respect to, the real property that secures the first deed of trust or first mortgage, this section shall not limit the ability of the holder of the first deed of trust or first mortgage to seek damages and use existing rights and remedies against the trustor or mortgagor or any third party for fraud or waste. (c) This section shall not apply if the trustor or mortgagor is a corporation or political subdivision of the state.”

The bad news? Governor Schwarzenegger vetoed Senate Bill 1178, which would have extended California's anti-deficiency protection to non-"cash out" refinance loans as well.

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