

I Barbara Moseby hereby request for " Title and Summary" of proposed Initiative draft.

10-0021

RECEIVED

AUG 23 2010

Date: August 23, 2010

Signed

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

marvinmoseby@msn.com

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

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We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Civil Code, relating to mandatory loan modification, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed amendments to the Civil Code (full title and text of measure) read as follows:

SECTION 1. Section 2923.3 is added to the Civil Code, to read:

2923.3. (a) Notwithstanding any other law, all of the following shall apply to a first mortgage or deed of trust secured by real property located in this state that is either a negative amortization mortgage loan or an option adjustable-rate mortgage loan:

(1) If at any time the principal owed under a first mortgage or deed of trust secured by owner-occupied residential real property is more than the fair market value of the property, the mortgagee or trustee shall, upon request of the mortgagor or trustor, convert the first mortgage or deed of trust to a new 30-year fixed rate mortgage or deed of trust in which the total amount owed, excluding interest at the prevailing market rate, taxes, and insurance, does not exceed the total of both of the following:

(A) The fair market value of the property.

(B) The total amount that is secured by the property under the first mortgage or deed of trust, and that was distributed to the mortgagor or trustor in the form of cash or the cash equivalent, excluding the total amount used to purchase or improve the property.

(2) If at any time the principal owed under a first mortgage or deed of trust secured by non-owner-occupied residential real property is more than the fair market value of the property, the mortgagee or trustee shall, upon request of the mortgagor or trustor, do one of the following:

(A) Convert the first mortgage or deed of trust to a 30-year fixed rate mortgage or deed of trust in which the total amount owed, excluding interest at the prevailing market rate, taxes, and insurance, does not exceed the total of both of the following:

(i) The fair market value of the property.

(ii) The total amount that is secured by the property under the first mortgage or deed of trust, and that was distributed to the mortgagor or trustor in the form of cash or the cash equivalent, excluding the total amount used to purchase or improve the property.

(B) Notwithstanding subparagraph (A), if the mortgagor or trustor offers to satisfy the obligation by means of a short sale, the mortgagee or trustee shall consent to the short sale. If a short sale is conducted and completed pursuant to this paragraph, the remaining balance on the loan shall be extinguished.

(b) (1) If the first mortgage or deed of trust is converted to a 30-year fixed rate mortgage or deed of trust pursuant to subdivision (a), all other mortgages or deeds of trust secured by that real property shall be extinguished and there shall be no further liability or other form of obligation of any kind upon those mortgages or deeds of trust that are extinguished pursuant to this subdivision.

(2) If the first mortgage or deed of trust is satisfied by means of a short sale pursuant to subparagraph (B) of paragraph (2) of subdivision (a) all other mortgages or deeds of trust secured by that property shall be extinguished and there shall be no further liability or other form of obligation of any kind upon those mortgages or deeds of trust that are extinguished pursuant to this subdivision.

(c) Any modification made or other action taken pursuant to this section shall not be reported to any consumer credit reporting agency and shall not form the basis of a negative consumer credit report regarding the mortgagor or trustor.

(d) For purposes of this section:

(1) A negative amortization loan is an adjustable-rate loan in which the required payments do not cover all the interest owed, resulting in an increasing principal.

(2) An option adjustable-rate mortgage loan, commonly known as a “pick-a-pay” loan, means an adjustable-rate loan that initially offers the borrower several payment options, which may include a specified minimum payment, an interest-only payment, or a fully amortizing payment.

(3) A short sale is a sale of real property that has been negotiated by the mortgagor or trustor with the approval of the mortgagee or trustee in which the lender receives less than the balance owed on the loan.

(e) This section applies to contracts entered into prior to, on, or after the effective date of this section.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.