



June 25, 2012

TO: All Members, Conference Committee on AB 278 and SB 900

FROM: California Bankers Association
California Chamber of Commerce
California Financial Services Association
California Mortgage Association
California Mortgage Bankers Association
Civil Justice Association of California
Securities Industry and Financial Markets Association
United Trustees Association

RE: Opposition to Assembly Bill 278 (Eng et al.) and Senate Bill 900 (Leno et al.)

The trade associations listed above OPPOSE Assembly Bill 278 (Eng et al.) and Senate Bill 900 (Leno et al.), measures that are part of the California Attorney General's "Homeowner Bill of Rights." These measures represent the work product of the conference committee convened to consider these more contentious measures focused on dual-tracking, single points of contact, loan documentation and enforcement.

When compared to the introduced version of the legislation that led to the creation of the conference committee, the Legislative Counsel version of language dated Thursday, June 21 that we received the afternoon of Friday, June 22 does demonstrate some progress toward our goal of reaching common ground. We request the opportunity to continue our good-faith negotiations. Prematurely suspending discussions, despite two months remaining in the legislative session, is troubling and fails to meet the desired outcome that we remain committed to of reaching common ground.

As proposed, these measures reflect an overly-complicated approach to prohibiting dual-tracking. We believe that these measures lack clarity around critical definitions, including whether the proposal is truly limited to first lien mortgages. Proponents indicated that the

legislation would not create a right to a loan modification or the creation of a loan modification program if the mortgage servicer currently does not offer such a program. We believe that the most recent language fails to address this concern.

The proposal confuses the submission of a complete application for a loan modification and a complete application for a foreclosure prevention alternative. The final product should hinge on the submission of a complete loan application for a loan modification of a first lien mortgage for residential one-to-four properties that are owner-occupied and serve as the borrower's principal residence, which would subsequently serve as the mechanism for consideration of other foreclosure prevention alternatives, if the borrower is deemed ineligible for a loan modification.

In addition, the liability exposure contained in these measures are substantial and fail to focus on truly injured borrowers, which we believe will encourage frivolous litigation. We continue to advocate for an enforcement mechanism focused on circumstances where a material violation precluded the borrower from pursuing a loan modification that they would have likely received. We also remain concerned with the provision of mandatory attorney's fees for prevailing borrower's and the absence of language preserving our existing law ability for an equitable offset against a claim for damages.

The above represents a few observations based upon the review of the most recent proposal. We reiterate our desire to continue negotiations and welcome an opportunity to meet at your earliest convenience. However, should the proposal advance in its current form, for the reasons stated, the trade associations listed above must **OPPOSE** these measures. Please do not hesitate to contact us to discuss these issues further.

Thank you.

cc: Gareth Elliott, Legislative Secretary, Office of the Governor
Camille Wagner, Deputy Legislative Affairs Secretary, Office of the Governor
Teveia R. Barnes, Commissioner, California Department of Financial Institutions
Jan Lynn Owen, Commissioner, California Department of Corporations