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CIVIL CODE - CIV

DIVISION 2. PROPERTY [654 - 1422] (*Heading of Division 2 amended by Stats. 1988, Ch. 160, Sec. 13.)*

PART 4. ACQUISITION OF PROPERTY [1000 - 1422] (*Part 4 enacted 1872.)*

TITLE 4. TRANSFER [1039 - 1231] (*Title 4 enacted 1872.)*

CHAPTER 2. Transfer of Real Property [1091 - 1134] (*Chapter 2 enacted 1872.)*

ARTICLE 1.8. Buyer's Choice Act [1103.20 - 1103.22] (*Article 1.8 added by Stats. 2009, Ch. 264, Sec. 1.)*

1103.20. This article shall be known, and may be cited, as the Buyer's Choice Act.

(*Added by Stats. 2009, Ch. 264, Sec. 1. (AB 957) Effective October 11, 2009.*)

1103.21. (a) The Legislature finds and declares:

- (1) Sales of foreclosed properties have become a dominant portion of homes on the resale real estate market.
- (2) The recent troubled real estate market has resulted in a concentration of the majority of homes available for resale within the hands of foreclosing lenders and has dramatically changed the market dynamics affecting ordinary home buyers.
- (3) Preserving the fair negotiability of contract terms is an important policy goal to be preserved in real estate transactions.
- (4) The potential for unfairness occasioned by the resale of large numbers of foreclosed homes on the market requires that protections against abuses be made effective immediately.
- (5) The federal Real Estate Settlement Procedures Act (RESPA) creates general rules for fair negotiation of settlement services, prohibits kickbacks and specifically prohibits a seller in a federally related transaction from requiring a buyer to purchase title insurance from a particular insurer.
- (6) California law does not specifically prohibit a seller from imposing, as a condition of sale of a foreclosed home, the purchase of title insurance or escrow services from a particular insurer or provider.
- (7) Therefore it is necessary to add this act to California law to provide to a home buyer protection that follows the RESPA model and applies to, and prevents, the conditioning of a sale of a foreclosed home on the buyer's purchase of title insurance from a particular insurer or title company and/or the buyer's purchase of escrow services from a particular provider.

(b) It is the intent of the Legislature that, for the purpose of this act, the sale of a residential real property is deemed to include the receipt of an offer to purchase that residential real property.

(*Added by Stats. 2009, Ch. 264, Sec. 1. (AB 957) Effective October 11, 2009.*)

1103.22. (a) A seller of residential real property improved by four or fewer dwelling units shall not require directly or indirectly, as a condition of selling the property, that title insurance covering the property or escrow service provided in connection with the sale of the property be purchased by the buyer from a particular title insurer or escrow agent. This section does not prohibit a buyer from agreeing to accept the services of a title insurer or an escrow agent recommended by the seller if written notice of the right to make an independent selection of those services is first provided by the seller to the buyer.

(b) For purposes of this section:

- (1) "Escrow service" means service provided by a person licensed pursuant to Division 6 (commencing with Section 17000) of the Financial Code, or exempt from licensing pursuant to Section 17006 of the Financial Code.

(2) "Seller" means a mortgagee or beneficiary under a deed of trust who acquired title to residential real property improved by four or fewer dwelling units at a foreclosure sale, including a trustee, agent, officer, or other employee of any such mortgagee or beneficiary.

(3) "Title insurance" means insurance offered by an insurer admitted in this state to transact title insurance pursuant to Chapter 1 (commencing with Section 12340) of Part 6 of the Insurance Code.

(c) A seller who violates this section shall be liable to a buyer in an amount equal to three times all charges made for the title insurance or escrow service. In addition, any person who violates this section shall be deemed to have violated his or her license law and shall be subject to discipline by his or her licensing entity.

(d) A transaction subject to this section shall not be invalidated solely because of the failure of any person to comply with any provision of this act.

(Added by Stats. 2009, Ch. 264, Sec. 1. (AB 957) Effective October 11, 2009.)