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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)*

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.)*

TITLE 4. LOAN [1884 - 1923.10] (*Title 4 enacted 1872.)*

CHAPTER 3. Loan of Money [1912 - 1916.12] (*Chapter 3 enacted 1872.)*

1912. A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. A loan for mere use is governed by the Chapter on Loan for Use.

(Enacted 1872.)

1913. A borrower of money, unless there is an express contract to the contrary, must pay the amount due in such money as is current at the time when the loan becomes due, whether such money is worth more or less than the actual money lent.

(Enacted 1872.)

[1914.] Section Nineteen Hundred and Fourteen. Whenever a loan of money is made, it is presumed to be made upon interest, unless it is otherwise expressly stipulated at the time in writing.

(Amended by Code Amendments 1873-74, Ch. 612.)

[1915.] Section Nineteen Hundred and Fifteen. Interest is the compensation allowed by law or fixed by the parties for the use, or forbearance, or detention of money.

(Amended by Code Amendments 1873-74, Ch. 612.)

1916. When a rate of interest is prescribed by a law or contract, without specifying the period of time by which such rate is to be calculated, it is to be deemed an annual rate.

(Enacted 1872.)

1916.1. The restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any loan, or any forbearance, extension, or modification of a loan, made or arranged by any person licensed as a real estate broker by the State of California, and secured, directly or collaterally, in whole or in part by liens on real property. For purposes of this section, a loan, or forbearance, extension, or modification of a loan, is arranged by a person licensed as a real estate broker when a broker (1) acts for compensation or in expectation of compensation for soliciting, negotiating, or arranging the loan, or forbearance, extension, or modification of the loan, for another, (2) acts for compensation or in expectation of compensation for selling, buying, leasing, exchanging, or negotiating the sale, purchase, lease, or exchange of real property or a business for another and (A) arranges a loan to pay all or any portion of the purchase price of, or of an improvement to, that property or business or (B) arranges a forbearance, extension, modification, or refinancing of any loan in connection with that sale, purchase, lease, exchange of, or an improvement to, real property or a business, or (3) arranges or negotiates for another a forbearance, extension, modification, or refinancing of any loan secured by real property in connection with a past transaction in which a broker had acted for compensation or in expectation of compensation for selling, buying, leasing, exchanging, or negotiating the sale, purchase, lease, or exchange of real property or a business. The term "made or arranged" includes any loan, or any forbearance, extension, or modification of a loan, made by a person licensed as a real estate broker as a principal or as an agent for others, and whether or not the person is acting within the course and scope of such license.

(Amended by Stats. 2024, Ch. 601, Sec. 1. (SB 1146) Effective January 1, 2025.)

1916.2. The restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution do not apply to any loans made by, or forbearances of, a public retirement or pension system that is created, authorized, and regulated by the laws of a state other than California, or the laws of a local agency of a state other than California.

This section establishes as an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution, any public retirement or pension system that is created, authorized, and regulated by the laws of a state other than California, or the laws of a local agency of a state other than California.

(Added by Stats. 1987, Ch. 764, Sec. 5.)

1916.5. (a) No increase in interest provided for in any provision for a variable interest rate contained in a security document, or evidence of debt issued in connection therewith, by a lender other than a supervised financial organization is valid unless that provision is set forth in the security document, and in any evidence of debt issued in connection therewith, and the document or documents contain the following provisions:

- (1) A requirement that when an increase in the interest rate is required or permitted by a movement in a particular direction of a prescribed standard an identical decrease is required in the interest rate by a movement in the opposite direction of the prescribed standard.
- (2) The rate of interest shall not change more often than once during any semiannual period, and at least six months shall elapse between any two changes.
- (3) The change in the interest rate shall not exceed one-fourth of 1 percent in any semiannual period, and shall not result in a rate more than 2.5 percentage points greater than the rate for the first loan payment due after the closing of the loan.
- (4) The rate of interest shall not change during the first semiannual period.
- (5) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge within 90 days of notification of any increase in the rate of interest.
- (6) A statement attached to the security document and to any evidence of debt issued in connection therewith printed or written in a size equal to at least 10-point boldface type, consisting of the following language:

NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.

(b) (1) This section shall be applicable only to a mortgage contract, deed of trust, real estate sales contract, or any note or negotiable instrument issued in connection therewith, when its purpose is to finance the purchase or construction of real property containing four or fewer residential units or on which four or fewer residential units are to be constructed.

(2) This section does not apply to unamortized construction loans with an original term of two years or less or to loans made for the purpose of the purchase or construction of improvements to existing residential dwellings.

(c) Regulations setting forth the prescribed standard upon which variations in the interest rate shall be based may be adopted by the Commissioner of Financial Protection and Innovation with respect to savings associations and by the Insurance Commissioner with respect to insurers. Regulations adopted by the Commissioner of Financial Protection and Innovation shall apply to all loans made by savings associations pursuant to this section before January 1, 1990.

(d) As used in this section:

(1) "Supervised financial organization" means a state or federally regulated bank, savings association, savings bank, or credit union, or state regulated industrial loan company, a licensed finance lender under the California Financing Law, a licensed residential mortgage lender under the California Residential Mortgage Lending Act, or holding company, affiliate, or subsidiary thereof, or institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code.

(2) "Insurer" includes, but is not limited to, a nonadmitted insurance company.

(3) "Semiannual period" means each of the successive periods of six calendar months commencing with the first day of the calendar month in which the instrument creating the obligation is dated.

(4) "Security document" means a mortgage contract, deed of trust, or real estate sales contract.

(5) "Evidence of debt" means a note or negotiable instrument.

(e) This section is applicable only to instruments executed on and after the effective date of this section.

(f) This section does not apply to nonprofit public corporations.

(g) This section is not intended to apply to a loan made where the rate of interest provided for is less than the then current market rate for a similar loan in order to accommodate the borrower because of a special relationship, including, but not limited to, an employment or business relationship, of the borrower with the lender or with a customer of the lender and the sole increase in interest provided for with respect to the loan will result only by reason of the termination of that relationship or upon the sale, deed, or transfer of the property securing the loan to a person not having that relationship.

(Amended by Stats. 2022, Ch. 452, Sec. 27. (SB 1498) Effective January 1, 2023.)

1916.6. A security document, or evidence of debt issued in connection therewith, executed pursuant to Section 1916.5 may provide that the rate of interest shall not change until five years after execution of such document or documents, and not more frequently than every five years thereafter. In every security document, or evidence of debt issued in connection therewith, executed pursuant to this section all the provisions of Section 1916.5 shall be applicable, except those provisions specifying the frequency of interest rate changes and limiting rate changes to one-fourth of 1 percent in any semiannual period. For the purposes of this section "five years" means each of the successive periods of five years commencing with the first day of the calendar month in which the instrument creating the obligation is dated.

(Added by Stats. 1977, Ch. 575.)

1916.7. (a) Sections 1916.5, 1916.6, 1916.8, and 1916.9 of the Civil Code, and any other provision of law restricting or setting forth requirements for changes in the rate of interest on loans, shall not be applicable to loans made pursuant to this section.

(b) A mortgage loan made pursuant to the provisions of this section is an adjustable-payment, adjustable-rate loan, on the security of real property occupied or intended to be occupied by the borrower containing four or fewer residential units and incorporating terms substantially as follows:

(1) The term of the loan shall be not less than 29 years, repayable in monthly installments amortized over a period of not less than 30 years.

(2) Monthly payments may be adjusted to reflect changes in the variable interest rate of the loan. Changes in interest and monthly payment shall not occur more often than twice during any annual period and at least six months shall elapse between any two changes. The rate of interest and monthly payments shall not change during the first semiannual period. The amount of any increase in monthly payment shall not exceed 7.5 percent annually.

(3) Monthly payments may also be established on a graduated basis within the parameters of a loan originated pursuant to the provisions of this section. A graduated payment adjustable mortgage loan shall meet all the requirements of this section and shall set forth in the note, at the time of origination, limitations on the rate of increase in the scheduled payments due both to graduation and to changes in the interest rate.

(4) Whenever any monthly installment is less than the amount of interest accrued during the month with respect to which the installment is payable, the borrower shall have the option to select one, or any combination of, the following:

(A) Notwithstanding paragraph (2) of subdivision (b), increase the monthly installment in an amount which at least covers the increase in interest.

(B) Have the difference added to the principal of the loan as of the due date of the installment and thereafter shall bear interest as part of the principal. In no instance shall the difference which is added to the principal be an amount which causes the resulting loan-to-value ratio to exceed the loan-to-value ratio at the time of loan origination.

(C) Extend the term of the loan up to, but not exceeding, 40 years.

(5) Changes in the rate of interest on the loan shall reflect the movement, in reference to the date of the original loan, of a periodically published index selected by the lender which may be either of the following:

(A) The contract interest rate on the purchase of previously occupied homes in the most recent monthly national average mortgage rate index for all major lenders published periodically by the Federal Home Loan Bank Board.

(B) The weighted average cost of funds for California Associations of the Eleventh District Savings and Loan Associations as published periodically by the Federal Home Loan Bank of San Francisco.

(6) Any change in the interest rate shall not exceed the limit, specified by the lender in the loan contract, for rate increases in any semiannual period and shall not exceed the limit, specified by the lender in the loan contract, for rate increases greater than the base index rate.

(7) Notwithstanding any change in the interest rate indicated by a movement of the index, increases in the interest rate shall be optional with the lender, while decreases are mandatory. Such decreases, upon the option of the borrower, shall be used (1) to pay off any negative amortization accrued when the interest rate was increased, or (2) to decrease the monthly payment as reflected in the decrease in the interest rate.

(8) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge at any time, and no fee or other charge may be required by the lender of the borrower as a result of any change in the interest rate or the exercise of any option or election extended to the borrower pursuant to this section.

(9) The borrower, after initiation of the loan, shall not be subsequently required to demonstrate his or her qualification for the loan, except that this paragraph shall not limit any remedy available to the lender by law for default or other breach of contract.

(10) In the event the remaining principal due on a loan made pursuant to this section will not be paid off during the current term, within 90 days of expiration of the term a borrower may elect in writing to repay the remaining balance in full or in substantially equal installments of principal and interest over an additional period not to exceed 10 years, during which period the interest rate shall remain fixed.

(c) An applicant for a loan originated pursuant to the provisions of this section must be given, at the time he or she requests an application, a disclosure notice in the following form:

NOTICE TO BORROWER

IMPORTANT INFORMATION ABOUT THE ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE LOAN

PLEASE READ CAREFULLY

(at least 10-point bold type)

You have received an application form for an adjustable-payment, adjustable-rate mortgage loan. This loan may differ from other mortgages with which you are familiar.

I. GENERAL DESCRIPTION OF ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE LOAN

The adjustable-payment, adjustable-rate mortgage loan is a flexible loan instrument. This means that the interest, monthly payment and/or the length of the loan may be changed during the course of the loan contract.

The first flexible feature of this loan is the interest rate. The interest rate on the loan may be changed by the lender every six months. Changes in the interest rate must reflect the movement of an index that is selected by the lender. Changes in the interest rate may result in increases or decreases in your monthly payment, in the outstanding principal loan balance, in the loan term, or in all three.

The lender is required by law to limit the amount that the interest can change at any one time or over the life of the loan. The law does not specify what these limits are. That is a matter you should negotiate with the lender.

You may also want to make inquiries concerning the lending terms offered by other lenders on adjustable-payment, adjustable-rate mortgage loans to compare the terms and conditions.

Another flexible feature of the adjustable-payment, adjustable-rate mortgage loan is the monthly payment. The amount of the monthly payment may be increased or decreased by the lender every six months to reflect the changes in the interest rate. State law prohibits the lender from increasing your monthly payment by more than 7.5 percent per year. There may be circumstances, however, in which you, the borrower, may want to increase the amount of your monthly payment beyond the 7.5 percent limit. This option would be available to you whenever changes in the interest rate threaten to increase the outstanding principal loan balance on the loan.

A third flexible feature of the adjustable-payment, adjustable-rate mortgage loan is that the outstanding principal loan balance (the total amount you owe) may be increased from time to time. This situation, called "negative amortization," can occur when rising interest rates make the monthly payment too small to cover the interest due on the loan. The difference between the monthly payment and the actual amount due in interest is added to the outstanding loan balance.

Under the terms of this mortgage, you as a borrower would always have the option of either incurring additions to the amount you owe on the loan or voluntarily increasing your monthly payments beyond the 7.5 percent annual limit to an amount needed to pay off the rising interest costs.

Continual increases in the outstanding loan balance may cause a situation in which the loan balance is not entirely paid off at the end of the 30-year loan term. If this occurs, you may elect in writing to repay the outstanding principal all at once, or with a series of fixed payments at a fixed rate of interest for up to 10 years.

The final flexible feature of the adjustable-payment, adjustable-rate mortgage loan is that you may lengthen the loan term from 30 to up to 40 years. Extending the loan term will lower your monthly payment slightly less than they would have been had the loan term not been extended.

II. INDEX

Adjustments to the interest rate of an adjustable-payment, adjustable-rate mortgage loan must correspond directly to the movement of an index which is selected, but not controlled, by the lender. Any adjustments to the interest rate are subject to limitations provided in the loan contract.

If the index moves down, the lender must reduce the interest rate by at least the decrease in the index. If the index moves up, the lender has the right to increase the interest rate by that amount. Although making such an increase is optional by the lender, you should be aware that the lender has this right and may be contractually obligated to exercise it.

The index used is [Name and description of index to be used for applicant's loan, initial index value (if known) and date of initial index value, a source or sources where the index may be readily obtained by the borrower, and the high and low index rates during the previous calendar year].

III. KEY PROVISIONS OF [Name of Institution]

ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE MORTGAGE LOAN

The following information is a summary of the basic terms on the mortgage loan being offered to you. This summary is intended for reference purposes only. Important information relating specifically to your loan will be contained in the loan agreement.

[Provide a summary of basic terms of the loan, including the loan term, the frequency of rate changes, the frequency of payment changes, the maximum rate change at any one time, the maximum rate change over the life of the loan, the maximum annual payment change, and whether additions to the principal loan balance are possible, in the following format:]

LOAN TERM

FREQUENCY OF RATE CHANGES

FREQUENCY OF PAYMENT CHANGES

IV. HOW YOUR ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE MORTGAGE LOAN WOULD WORK

A. INITIAL INTEREST RATE

The initial interest rate offered by [Name of Institution] on your adjustable-payment, adjustable-rate mortgage loan will be established and disclosed to you on [commitment date, etc.] based on market conditions at that time.

[Insert a short description of each of the key provisions of the loan to be offered to the borrower, using headings where appropriate.]

B. NOTICE OF PAYMENT ADJUSTMENTS

[Name of Institution] will send you notice of an adjustment to the payment amount at least 60 days before it becomes effective. [Describe what information the notice will contain.]

C. PREPAYMENT PENALTY

You may prepay your adjustable-payment, adjustable-rate mortgage in whole or in part without penalty at any time during the term of the loan.

D. FEES

You will be charged fees by [Name of Institution] and by other persons in connection with the origination of your loan. The association will give you an estimate of these fees after receiving your loan application. However, you will not be charged any costs of fees in connection with any regularly scheduled adjustment to the interest rate, the payment, the outstanding principal loan balance, or the loan term.

V. EXAMPLE OF OPERATION OF YOUR ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE MORTGAGE LOAN

[Set out an example of the operation of the mortgage loan, including the use of a table. In at least one of the examples, create a situation showing how negative amortization could occur.]

(d) At least 60 days prior to the due date of a monthly installment to be revised due to a change in the interest rate, notice shall be mailed to the borrower of the following:

- (1) The base index.
- (2) The most recently published index at the date of the change in the rate.
- (3) The interest rate in effect as a result of the change.
- (4) The amount of the unpaid principal balance.
- (5) If the interest scheduled to be paid on the due date exceeds the amount of the installment, a statement to that effect, including the amount of excess and extent of borrower options as described in paragraph (4) of subdivision (b).
- (6) The amount of the revised monthly installment.
- (7) The borrower's right to prepayment under paragraph (8) of subdivision (b).
- (8) The address and telephone number of the office of the lender to which inquiries may be made.

(e) As used in this section:

- (1) "Base index" means the last published index at the date of the note.
- (2) "Base index rate" means the interest rate initially applicable to the loan as specified in the note.
- (3) "Graduated Payment Adjustable Mortgage Loan" means a loan on which the monthly payments begin at a level lower than that necessary to pay off the remaining principal balance over an amortization period of not less than 30 years. During a period the length of which is fixed at loan origination (the "graduation period"), the scheduled payments gradually rise to a level sufficient to pay off the remaining principal balance over the stipulated amortization period. Limitations on the rate of increase in the scheduled payments due both to graduation and to changes in the interest rate are also fixed at loan origination.
- (4) "Note" means the note or other loan contract evidencing an adjustable-payment, adjustable-rate mortgage loan.

(Added by Stats. 1981, Ch. 1079, Sec. 1.)

1916.8. Any lender may make, purchase or participate in a renegotiable rate mortgage loan under this section if the loan complies with the provisions of this section pertaining to one- to four-family home loans.

(a) For purposes of this section, a renegotiable rate mortgage loan is a loan issued for a term of three, four or five years, secured by a long-term mortgage or deed of trust of up to 30 years, and automatically renewable at equal intervals except as provided in paragraph (1) of subdivision (b). The loan must be repayable in equal monthly installments of principal and interest during the loan term, in an amount at least sufficient to amortize a loan with the same principal and at the same interest rate over the remaining term of the mortgage or deed of trust. Only one of the indices described in paragraph (1) of subdivision (b) shall be used and no other index shall be used during the term of the mortgage or deed of trust securing the loan. At renewal, no change other than in the interest rate may be made in the terms or conditions of the initial loan. Prepayment in full or in part of the loan balance secured by the mortgage or deed of trust may be made without penalty at any time after the beginning of the minimum notice period for the first renewal, or at any earlier time specified in the loan contract.

(b) Interest rate changes at renewal shall be determined as follows:

- (1) Subject to the provisions of subdivision (a) the interest rate offered at renewal shall reflect the movement, in reference to the date of the original loan, of an index, which may be either (i) the contract interest rate on the purchase of previously occupied homes in the most recent monthly national average mortgage rate index for all major lenders published by the Federal Home Loan Bank Board, or (ii) the weighted average cost of funds for the 11th District Savings and Loan Associations as computed by the Federal Home Loan Bank of San Francisco; provided that a lender may extend the initial terms of loans for a period less than six

months so that they may mature on the same date three, four or five years after the end of such period of extension, in which case the interest rate offered at renewal shall reflect the movement of the index from the end of such period so that loans may be grouped as though all loans of such group had originated at the end of the extension period.

(2) The maximum rate increase or decrease shall be $\frac{1}{2}$ of 1 percentage point per year multiplied by the number of years in the loan term, with a maximum increase or decrease of 5 percentage points over the life of the mortgage or deed of trust. The lender may offer a borrower a renegotiable rate mortgage loan with maximum annual and total interest rate decreases smaller than the maximum set out in this paragraph, except that in such a case the maximum annual and total interest rate increases offered shall not exceed the maximum annual and total decreases set out in the loan contract.

(3) Interest rate decreases from the previous loan term shall be mandatory. Interest rate increases are optional with the lender, but the lender may obligate itself to a third party to take the maximum increase permitted by this paragraph.

(c) The borrower may not be charged any costs or fees in connection with the renewal of such loan.

(d) At least 90 days before the due date of the loan, the lender shall send written notification in the following form to the borrower:

NOTICE

Your loan with [name of lender], secured by a [mortgage/deed of trust] on property located at [address], is due and payable on [90 days from the date of notice].

If you do not pay by that date, your loan will be renewed automatically for ____ years, upon the same terms and conditions as the current loan, except that the interest rate will be ____%. (See accompanying Truth-In-Lending statement for further credit information.)

Your monthly payment, based on that rate, will be \$____, beginning with the payment due on ____, 19__.

You may pay off the entire loan or a part of it without penalty at any time.

If you have questions about this notice, please contact [title and telephone number of lender's employee].

(e) An applicant for a renegotiable rate mortgage loan must be given, at the time he or she requests an application, a disclosure notice in the following form:

INFORMATION ABOUT THE RENEGOTIABLE-RATE MORTGAGE

You have received an application form for a renegotiable-rate mortgage ("RRM"). The RRM differs from the fixed-rate mortgage with which you may be familiar. In the fixed-rate mortgage the length of the loan and the length of the underlying mortgage are the same, but in the RRM the loan is short-term (3–5 years) and is automatically renewable for a period equal to the mortgage (up to 30 years). Therefore, instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease at each renewal of the short-term loan. This means that the amount of your monthly payment may also increase or decrease.

The term of the RRM loan is ____ years, and the length of the underlying mortgage is ____ years. The initial loan term may be up to six months longer than later terms.

The lender must offer to renew the loan, and the only loan provision that may be changed at renewal is the interest rate. The interest rate offered at renewal is based on changes in an index rate. The index used is (either of the following statements shall be given): [computed monthly by the Federal Home Loan Bank Board, an agency of the federal government. The index is based on the national average contract rate for all major lenders for the purchase of previously occupied, single-family homes.] [the weighted average cost of savings, borrowings and Federal Home Loan Bank advances to California members of the Federal Home Loan Bank Board of San Francisco as computed from statistics tabulated by the Federal Home Loan Bank of San Francisco. The index used is computed by the Federal Home Loan Bank of San Francisco.]

At renewal, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to offer a renewal of the loan at an interest rate equaling the original interest rate plus the increase in the index rate. This is the maximum increase permitted to the lender. Although taking such an increase is optional with the lender, you should be aware that the lender has this right and may become contractually obligated to exercise it.

If the index has moved down, the lender must at renewal reduce the original interest rate by the decrease in the index rate. No matter how much the index rate increases or decreases, THE LENDER, AT RENEWAL, MAY NOT INCREASE OR DECREASE THE INTEREST RATE ON YOUR RRM LOAN BY AN AMOUNT GREATER THAN ____ OF ONE PERCENTAGE POINT PER YEAR OF

THE LOAN, AND THE TOTAL INCREASE OR DECREASE OVER THE LIFE OF THE MORTGAGE MAY NOT BE MORE THAN ____ PERCENTAGE POINTS.

As the borrower, you have the right to decline the lender's offer of renewal. If you decide not to renew, you will have to pay off the remaining balance of the mortgage. Even if you decide to renew, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the minimum notice period for the first renewal. To give you enough time to make this decision, the lender, 90 days before renewal, will send a notice stating the due date of the loan, the new interest rate and the monthly payment amount. If you do not respond to the notice, the loan will be automatically renewed at the new rate. You will not have to pay any fees or charges at renewal time.

The maximum interest rate increase at the first renewal is ____ percentage points. On a \$50,000 mortgage with a loan term of ____ years and an original interest rate of [lender's current commitment rate] percent, this rate change would increase the monthly payment (principal and interest) from \$____ to \$____. Using the same example, the highest rate you might have to pay over the life of the mortgage would be ____ percent, and the lowest would be ____ percent.

(Added by Stats. 1980, Ch. 1139, Sec. 2.)

1916.9. (a) Every lender who offers a renegotiable rate mortgage loan pursuant to Section 1916.8 to a borrower who occupies or intends to occupy the property which is security for the loan shall also offer to such borrower a fixed rate mortgage loan in the same amount with a term of at least 29 years.

(b) Nothing in this section shall require that the terms of such alternative loans, including the rates of interest thereon, must be the same as those terms offered with regard to the fixed-payment adjustable-rate loan or the renegotiable rate mortgage loan also offered.

(c) This section does not apply to any lender who makes less than 10 loans per year.

(Added by Stats. 1980, Ch. 1139, Sec. 3.)

1916.11. Notwithstanding any other remedy a borrower may have based on an alleged failure to comply with Sections 1916.5 through 1916.9, the lien of the mortgage or deed of trust shall be valid.

(Added by Stats. 1981, Ch. 274, Sec. 2. Effective August 27, 1981.)

1916.12. (a) The Legislature finds that the economic environment of financial institutions has become increasingly volatile as a result of regulatory revisions enacted by the United States Congress and federal agencies including, but not necessarily limited to, the Comptroller of the Currency, the Federal Home Loan Bank Board, Federal Reserve Board, and the Depository Institutions Deregulation Committee. The Legislature further finds that deposit rate ceilings are being phased out while the cost of and competition for funds have escalated. It is the purpose of this section to maintain the quality of competition between state-licensed and federally regulated financial institutions in the field of mortgage lending, as well as promote the convenience, advantage and best interests of California residents in their pursuit of adequate and available housing. In order to remain competitive and provide the optimum housing environment for the citizens of California, state institutions require the ability to respond in a timely manner to changes in mortgage lending parameters initiated at the federal level. Local regulatory guidelines must promote continued parity between the state and federal levels in order to avoid creation of discriminatory burdens upon state institutions and to protect interests held by California citizens. It is the intent of the Legislature to eliminate past and prevent future inequities between state and federal financial institutions doing business in the State of California by creating a sensitive and responsive mortgage parity procedure.

(b) The Secretary of the Business, Consumer Services, and Housing Agency, or the secretary's designee as defined by subdivision (c) of Section 1918.5 of the Civil Code, shall have the authority to prescribe rules and regulations extending to lenders who make loans upon the security of residential real property any right, power, privilege or duty relating to mortgage instruments that is equivalent to authority extended to federally regulated financial institutions by federal statute or regulation.

(c) In order to grant equivalent mortgage lending authority to state financial institutions to that which has been extended to federal financial institutions, the secretary or the secretary's designee shall adopt such regulations within 60 days of the effective date of the statute or regulation extending the comparable right, power, privilege, or duty to federally regulated financial institutions.

(d) The provisions of Sections 1916.5, 1916.6, 1916.7, 1916.8, and 1916.9, and any other provisions of law relating to the requirements for changes in the rate of interest on loans, shall not be applicable to loans made pursuant to the provisions of this section and regulations promulgated thereunder.

(e) Any regulations adopted pursuant to this section shall expire on January 1 of the second succeeding year following the end of the calendar year in which the regulation was promulgated. Subsequent amendments to these regulations cannot extend this expiration date.

(f) This section shall become operative on December 31, 1983.

