

C.A.R.-Sponsored Bill to Protect Borrowers From Lenders

C.A.R. is sponsoring SB 1178 (Corbett) to extend anti-deficiency protection to homeowners who had refinanced from "purchase money" loans and are now facing foreclosure. C.A.R. is sponsoring SB 1178 because most homeowners don't know that when they refinanced from their original loan they lost their legal protections and now may be personally liable for the difference between the value of the foreclosed property and the amount owed to the lender. SB 1178 will be voted on soon by the entire Senate.

California law has protected borrowers from so-called "deficiency" liability on their home mortgages since the 1930s, but the evolution of mortgage finance requires that the statute be updated.

Current law says that if a homeowner defaults on a mortgage used to purchase his or her home, the homeowner's liability on the mortgage is limited to the property itself. The law has worked well since the 1930s to protect borrowers, ensure the quality of loan underwriting and allow borrowers brought down by financial crisis to get back on their feet.

SB 1178 is consistent with the intent of the original law and simply updates it for modern times. Current law was intended to ensure that if someone lost their home to foreclosure, they wouldn't be liable for additional payment. Since the law was passed over 70 years ago, homeowners refinancing from the original loan to lower their interest rate has become a commonplace. The 1930s legislature didn't anticipate how mortgages would change over time.

As things stand today, lenders could pursue families to collect this "debt" years down the road. Lenders have up to ten years to collect on the additional debt after a judgment has been entered on the foreclosure. Years after a family has lost their home, they could find themselves in even more financial trouble. Lenders could even sell these accounts to aggressive collection agencies or even bundle them into securities. The end result would be banks who didn't lend responsibly in the first place coming after families for even more money that they don't have.