



POLICY BRIEF: AB 2359 Jones (D-Sacramento) Loans

Summary: AB 2359 Jones (D-Sacramento) increases restrictions and liabilities on subprime mortgages, non-traditional consumer loans and mortgage-backed securities. It contains two sweeping changes to California financial code. The first will forbid lenders from requiring borrowers to waive their rights under state law as a condition for making the loan. The lender cannot reject a loan application solely because the borrower refuses to waive such rights. Any waiver on the part of the borrower must be knowing and voluntary, and the burden of proof is on the originator. The second provides that if the loan is securitized and sold, its subsequent owner is liable for any violations of California law that the borrower claims against the originator.

Background: With the recent surge in home foreclosures, subprime mortgages and non-traditional consumer loans have come under scrutiny for the harsh terms that can be imposed upon borrowers. Issuers often pool and sell the mortgages to investors, who under current law are exempt from liability relating to their origination.

The secondary mortgage market has already experienced a substantial reduction in the amount of capital available to make mortgage loans. There is much concern that this legislation would accelerate the current trend and drive capital out of California and into other states.

Status: Assembly Third Reading

Supporters: Center for Responsible Lending, Consumer Attorneys of Sacramento

Opponents: California Bankers Association, California Association of Realtors, California Mortgage Bankers Associations, California Financial Services Association

Recommended Position: Oppose