

SB 306

(Chapter 43, Statutes of 2009)



SHORT SALE DEMANDS

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SB 306:

New Short Sale Demand Procedures

Effective January 1, 2010

- **YOU NEED:**
 - **“Short-pay agreement” (approval) - already in writing**
 - **Escrow open/contract received**
 - **Preliminary Report and/or other information about other liens**
- **THEN SEND:**
 - **The above items**
 - **Your “short-pay demand” request**
- **AND RECEIVE:**
 - **“Short-pay demand”***
 - **Good for up to 30 days**
 - **Approval of estimated HUD-1, if required, within four days of submission. Close without lender approval if no conflicts (defer to your company guidelines that may require prior underwriter or manager review)**
 - **Complete all steps for Civil Code protections @ payoff**

**** Lender may refuse (See Civil Code Section 2943 (c)(2))***

SB 306 Creates New Escrow Terms

Effective January 1, 2010:

SB 306 Adds three new definitions to California Civil Code Section 2943

✓ ***“Short-pay agreement”***

(Civil Code Section 2943 (a)(6))

✓ ***“Short-pay demand statement”***

(Civil Code Section 2943 (a)(7))

✓ ***“Short-pay request”***

(Civil Code Section 2943 (a)(8))

SB 306 Definitions

"Short-pay agreement" means:

An agreement in writing in which the beneficiary agrees to release its lien on a property in return for payment of an amount less than the secured obligation.

(Civil Code Section 2943 (a)(6))

"Short-pay demand statement" means :

- A written statement,
- issued subsequent to and conditioned on the existence of a short-pay agreement that is in possession of the entitled person,
- that is prepared in response to a written demand made by an entitled person or authorized agent,
- setting forth an amount less than the outstanding debt, together with any terms and conditions, under which the beneficiary will execute and deliver a reconveyance of the deed of trust securing the note that is the subject of the short-pay demand statement. The period shall not be greater than 30 days from the date of preparation by the beneficiary.

(Civil Code Section 2943 (a)(7))

SB 306 Definitions (con't)

"Short-pay request" means:

A written request made by an entitled person or authorized agent requesting the beneficiary to provide a short-pay demand statement that includes all of the following:

- (A) A copy of an existing contract to purchase the property for an amount certain.
- (A) A copy of the short-pay agreement in the possession of the entitled person.
- (B) Information related to the release of any other liens on the property, if any.

(Civil Code Section 2943 (a)(8))

SB 306: Other important considerations

Closing statement deemed approved:

If the terms and conditions of the short-pay agreement require approval by the beneficiary of a closing statement or similar document prepared by an escrowholder, approval or disapproval shall be provided not more than four days after receipt by the beneficiary of the closing statement, or the closing statement shall be deemed approved, provided that the statement is not clearly contrary to the terms of the short-pay agreement or the short-pay demand statement provided to the escrowholder.

(Civil Code Section 2943 (c)(2))

Closing without approval of the closing statement, if required by the short-pay lender, is not without risk:

Know your company procedures and consult your underwriter or manager or other appropriate party prior to proceeding!

SB 306: Actual text of bill

This presentation is meant only as a helpful guide to readers to better understand the possible implications of the newly enacted bill, SB 306.

It is strongly advised that you read the actual text of the bill, which may be found in its entirety at:

(http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_03010350/sb_306_bill_20090806_chaptered.pdf)