



# *Program Bulletin*

**March 12, 2002**

**Program Bulletin #2002-07**

**To: CHFA Approved Lenders and Servicers**

## **SUMMARY OF CALIFORNIA RECONVEYANCE CHANGES FOR 2002**

The following summary of California Assembly Bill 1090 is provided for guidance in reconveying CHFA Deeds of Trust.

AB 1090, which went into effect on January 1, 2002, amends portions of California Civil Code sections 2941 and 2943 to change the duties of the parties to a Deed of Trust when the obligation secured by the Deed of Trust has been satisfied. All California Housing Finance Agency (CHFA) Servicers are expected to comply with these new requirements, and will bear the risk and expense resulting from any failure to do so, and shall be required to indemnify and defend CHFA from any claim or action resulting from the Servicer's failure to comply when acting on CHFA's behalf in its role as Beneficiary. A person who violates the bill's provisions is liable to the person affected by the violation for all damages the person affected may sustain and forfeits to the person affected the sum of \$300.

The bill requires the Beneficiary or the Assignee of the Beneficiary to execute and deliver to the Trustee the original Promissory Note (Note), Deed of Trust, request for full Reconveyance, and other documents as may be necessary to reconvey, or cause to be reconveyed, the Deed of Trust within 30 calendar days after the loan secured by a Deed of Trust has been satisfied. The bill also provides an alternative to that procedure. Instead of delivering the original Note and Deed of Trust to the Trustee within 30 days of loan satisfaction, the Beneficiary may, within 120 days of loan satisfaction, deliver the original Note and Deed of Trust to either the Trustee or Trustor and further requires that upon satisfaction, the Note and Deed of Trust be altered to indicate that the obligation is paid in full.

Since CHFA retains possession of the original Note (and, on some older loans, other original documents), to assure CHFA's assistance in meeting these deadlines, Servicers must, upon remitting the loan balance collected, inform CHFA that the remittance is for a payoff (as opposed to a repurchase), request return of the original documents, and inform CHFA, preferably by facsimile transmission (916 445-3961), of the address to which the original Note should be sent. To avoid inadvertent cancellation of a Note that has not been paid off, the Servicer shall be responsible for complying with the bill's requirement that the Note be altered to indicate the loan had been paid in full.

The bill also requires the Reconveyance instrument to specify the Trustor as the person to whom the recorder will deliver the recorded instrument.

Lastly, the bill decreases the maximum charge for a Beneficiary Statement and or Demand Statement to \$30.00 (except for FHA-insured and VA-guaranteed loans), and further requires that a Beneficiary which discovers after collecting the fee that the release of obligation has already been recorded, must refund the fee.

Servicer's are urged to review the entirety of AB 1090, and to work with legal counsel to assure compliance with its mandates.

Questions regarding this bulletin and CHFA's servicing policies and procedures may be directed to CHFA's Homeownership Programs, Servicing Administrator, 1121 L Street, Ste. 402, Sacramento, CA 95814, by calling (916) 324-8088, by fax (916) 324-6589 or visit CHFA's website at: [www.chfa.ca.gov](http://www.chfa.ca.gov)



***Lenders are encouraged to use CHFA's FHA Energy Efficient Mortgage Program (EEM) to minimize energy usage and costs. Additional information regarding EEMs is available on CHFA's web page.***