

## **TAX LETTER**

### **California Homeowner Bill of Rights**

Dear Clients and friends,

As you already knew, beginning in 2009 Californians had seen mounting increase in foreclosures of homes which plunged the State into a Foreclosure Epidemic. To counter this economic trend, Governor Arnold Schwarzeneger signed the California Foreclosure Prevention Act (CFPA) in February 2009. Although the CFPA did help out a little bit, however it failed to stamp out the Foreclosure Epidemic and was allowed to expire on January 1, 2012.

Due to the continuous foreclosure of homes, a series of Bills were introduced in Sacramento. Some were passed by the Senate and some were passed by the Assembly. The combined result of this legislative movement is a package of 9 Bills, collectively known as the California Homeowner Bill of Rights. The purpose of which is to give specific legal protection to Californians to protect their homes from unfair or fraudulent acts practiced by many mortgage lenders and/or servicers.

An Assembly bill - AB278 and a Senate Bill - SB900 were the first two out of the 9-Bill package signed into law by Governor Jerry Brown on July 11, 2012, and officially launched the Homeowner Bill of Rights in California. By the way, this is the first Homeowner Bill of Rights in the United States.

Effective January 1, 2013, the key provisions in these two Bills (AB278 & SB900) will protect homeowners against unfair or fraudulent foreclosure practiced by many mortgage lenders/servicers. These provisions are:

- 1) Dual track foreclosure ban: Mortgage lenders/servicers will be stopped from filing a notice of default or notice of sales, or by conducting a trustee's sale before the rendering of a final decision on a loan modification applied for or requested by the homeowner. The result of the mortgage modification review and the final decision must be clearly communicated to the homeowner applicant. Effectively, the foreclosure process will be put on hold until the completion of and final decision on a mortgage modification application.
- 2) Single point of contact: Mortgage lenders/servicers will be required to designate a "single point of contact" for homeowner borrower who potentially would be eligible for a Federal or proprietary loan modification. A "single point of contact" should be an individual or a team having knowledge of the homeowner's status and any foreclosure prevention alternative which may be available to the homeowner.
- 3) Verification of documents: The recording and filing of multiple unverified documents by lenders/servicers will be subject to a civil penalty of up to \$7,500 per loan in action brought by a civil prosecutor. This civil penalty will also be enforced by the Department of corporation, Department of Real Estate or Department of financial Institution.

4) Injunctive and recovery relief: Homeowner/borrower will have the authority to seek redress of “material” violations of these provisions, such as “injunctive relief” prior to a foreclosure sale or “recovery of damages” following a foreclosure sale.

**Additionally**, on September 25, 2012, Governor Jerry Brown also signed three other Bills of this 9-Bill package into law as part of the California Homeowner Bill of Rights. These 3 Bills are:

A) Senate Bill, SB1474: Authorize California Attorney General to impanel a statewide special Grant Jury to investigate and issue indictments for complex multi-jurisdictional mortgage lending fraud.

B) Assembly Bill, AB 1950: Extends California Attorney General’s authority to enforce the law against mortgage and/or foreclosure fraud by lengthen the legal stature of limitation for prosecution from one year to three years.

C) Assembly Bill, AB 2610: To help and protect Renters of foreclosed properties. To allow them to stay in the properties purchased by new owners for an additional length of time.

If you like to find out more about this subject matter, please go to California Attorney General’s website <https://oag.ca.gov>.

Sincerely,

Cho F chan CPA, Inc.  
An Accountancy Corporation