



CIVIL JUSTICE ASSOCIATION
OF
CALIFORNIA

March 26, 2009

TO: The Honorable Mike Feuer, Chair, Assembly
Judiciary Committee
The Honorable Van Tran, Vice Chair, Assembly
Judiciary Committee
Members, Assembly Judiciary Committee

FROM: Kim Stone, Vice President-Legislation
John H. Sullivan, President

RE: AB 260 (Lieu)
Committee Hearing Date: March 31, 2009

CJAC POSITION: OPPOSE

The Civil Justice Association of California must respectfully oppose Assembly Bill 260, parts of which appear unnecessary and parts of which are troubling.

To begin with, the part of the bill statutorily creates a fiduciary obligation from the mortgage broker to the client is unnecessary. (See page 6, lines 27-36.) This obligation is already required under established case law. *Wyatt v. Union Mortgage Co.*, 598 P.2d 45 (1979).

Additionally, we are concerned that other provisions in the bill will encourage abusive lawsuits. These include additional duties and requirements placed upon lenders and mortgage brokers, and the award of attorney's fees and costs to a prevailing plaintiff only. (See page 11, lines 26-30.)

Therefore, we must oppose Assembly Bill 260.

cc: Drew Libert, Chief Counsel, Assembly Judiciary Committee
Mark Redmond, Chief Consultant, Assembly Republican Caucus
Chris Ryan, Deputy Legislative Secretary, Office of
Governor Schwarzenegger
Katherine Pettibone, Governor's Office of Planning and Research

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