California State Assembly

BANKING AND FINANCE

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MONIQUE LIMÓN
CHAIR

March 20, 2020

To: Members of the Assembly
Re: Banking and Finance issues related to COVID-19

Dear Members,

The purpose of this memo is to provide information related to COVID-19 issues that fall under the jurisdiction of the Assembly Banking and Finance Committee. All of us are inundated with announcements, news articles, and constituent questions related to the economic and financial fallout from COVID-19. I directed committee staff to gather the following information based on concerns and issues that I have heard from you and from my constituents.

Some issues do not fit neatly into one committee's jurisdiction. For example, real estate transactions span the jurisdictions of at least three committees – Banking, Judiciary, and Housing. Committee consultants in all three committees are working together to leverage their respective expertise in evaluating potential policy responses, such as foreclosure prevention measures.

As you consider legislative responses or messages to constituents, please view me and committee staff as a resource. You can reach the Chief Consultant, Michael Burdick, at michael.burdick@asm.ca.gov or 870-718-7324.

Sincerely,

Monique Limón
37th Assembly District

Background: limits of state authority

State authority over large national banks is significantly constrained by federal law. Under the National Bank Act and related case law, courts have widely upheld federal preemption over state laws that "interfere with the business of banking." Courts would likely stop any attempts by the state to force banks to limit rates or fees, demand forbearance or loan modifications, or require banks to make certain loans.

Due to federal preemption, state laws cannot address many of the challenges faced by our constituents who cannot repay their loans. National banks have significant market share in residential mortgages, credit cards, and commercial loans. State officials may urge these banks to give their borrowers relief, as the Governor of New York did yesterday, but these requests do not carry the force of law. State officials may also urge federal policymakers to enact broad debt relief measures that could cover all bank loans.

Advice for constituents

Many of our constituents are looking for guidance on what they should do about loans they cannot afford to repay. Banks and other creditors are ready to assist customers based on their individual circumstances. If constituents are having trouble paying any loan, the best advice is for them to contact their creditor directly and ask for relief from scheduled payments. Constituents should be prepared to provide specific information about how their income has changed due to COVID-19.

This advice applies to constituents with any type of credit product, including credit cards, residential mortgages, small business loans, commercial real estate loans, and student loans. Constituents can also ask their bank to waive overdraft or other checking account fees due to financial hardships created by COVID-19.

Resources for constituent casework

The federal Consumer Financial Protection Bureau has a website with guidance for how consumers can protect their finances during the pandemic. In addition to guidance documents related to dealing with debt, financial caregivers, and protecting your credit report, the site also has resources to help a consumer file a complaint against a financial services provider.

The federal government announced that federal student loan payments can be deferred for 60 days and interest rates will temporarily be reduced to 0%. Track updates on federal student loan policies at this website.

The American Bankers Association created a website to track the policies of various banks in responding to COVID-19. Your staff can use this website as a resource as they engage in casework and respond to questions from constituents about specific banks' policies.

Mortgage rates and home sales

Mortgage rates remain near historic lows. Freddie Mac reported that the 30-year fixed-rate mortgage averaged 3.65% as of March 19. While this is an increase of 0.3% from a week ago, rates are 0.6% lower than one year ago and remain far below historic averages. Low mortgage rates have spurred a surge in applications for mortgage refinancings. In response, mortgage lenders increased prices to manage the higher demand, but this increase is expected to be temporary as lenders work through the backlog of refinance applications.

With mortgage rates near all-time lows, it is unlikely that mortgage rates are causing a slowdown in home sales. To the degree that home sales are slowing in California, the decrease is likely due to other factors, such as the effect of stock market declines on household wealth and resources for down payments, the effect of job losses on household income and ability to qualify for a mortgage, and the effect of state and local orders to “stay at home” on the prevalence of open houses and similar real estate market activities.

Mortgage rates are partially determined by the rates charged for bonds issued by the federal government, like the 10-year Treasury note. If the interest rates on government bonds increase, interest rates on mortgages are also likely to increase. As the federal government acts to stimulate the economy, interest rates on government bonds may increase due to the ballooning federal budget deficit.

In the event that mortgage rates increase and negatively affect the real estate market, state legislators have limited tools to address such a problem. Banks originate about half of all mortgage volume nationwide. Courts have ruled that states cannot establish limitations on interest rates or fees charged by nationally-chartered banks. In the event that the state restricted interest rates on nonbank mortgage loan originators, it is likely that fewer Californians would qualify for a mortgage, which could reduce the number of home sales in the state.