

Senate Bill No. 364

CHAPTER 302

An act to amend Section 2948.5 of the Civil Code, relating to mortgages and deeds of trust.

[Approved by Governor September 18, 2001. Filed with Secretary of State September 19, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 364, Alpert. Mortgages and deeds of trust: accrual of interest.

Existing law provides that interest on the principal obligation of a promissory note secured by a mortgage or deed of trust on real property improved by one to 4 residential dwelling units shall not commence to accrue prior to close of escrow if the loan proceeds are paid into escrow or, if there is no escrow, the date upon which the loan proceeds have been made available for withdrawal as a matter of right. This provision does not apply if the funds are paid or made available from a federally insured financial institution with an office in this state.

This bill instead would provide that a borrower may not be required to pay interest on a principal obligation under a promissory note secured by a mortgage or deed of trust on real property improved with between one to 4 residential dwelling units for a period of more than one day prior to recording the mortgage or deed of trust, if the loan proceeds are paid into escrow or, if there is no escrow, the date upon which the loan proceeds have been made available for withdrawal. The bill would additionally provide that interest may begin accruing on the business day immediately preceding the day of recording, if the borrower requests and the lender agrees that the recording will occur on Monday or a day immediately after a bank holiday, and if the lender makes specified disclosures. This bill would also delete the limitation for federally insured financial institutions within an office of this state thereby applying these provisions to those institutions. The bill would also exempt specified loans from these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 2948.5 of the Civil Code is amended to read:
2948.5. (a) A borrower shall not be required to pay interest on a principal obligation under a promissory note secured by a mortgage or deed of trust on real property improved with between one to four residential dwelling units for a period in excess of one day prior to



recording of the mortgage or deed of trust if the loan proceeds are paid into escrow or, if there is no escrow, the date upon which the loan proceeds have been made available for withdrawal as a matter of right, as specified in subdivision (d) of Section 12413.1 of the Insurance Code.

(b) Interest may commence to accrue on the business day immediately preceding the day of recording, if both of the following occur:

(1) The borrower affirmatively requests, and the lender agrees, that the recording will occur on Monday, or a day immediately following a bank holiday.

(2) The following information is disclosed to the borrower in writing:

(A) the amount of additional per diem interest charged to facilitate recording on Monday or the day following a holiday, as the case may be, and (B) that it may be possible to avoid the additional per diem interest charge by recording the deed of trust on a day immediately following a business day. This disclosure shall be provided to the borrower and acknowledged by the borrower by signing a copy of the disclosure document prior to placing funds in escrow.

(c) This section does not apply to a loan that is subject to subdivision (c) of Section 10242 of the Business and Professions Code.

