

AMENDED IN SENATE MARCH 18, 1998  
AMENDED IN ASSEMBLY JANUARY 15, 1998  
AMENDED IN ASSEMBLY JANUARY 7, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1203**

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**Introduced by Assembly Member Kuykendall**

February 28, 1997

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An act to amend Section 10234 of the Business and Professions Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

AB 1203, as amended, Kuykendall. Real estate.

The Real Estate Law requires every real estate licensee who negotiates a loan secured by a trust deed on real property to cause that trust deed to be recorded, naming as beneficiary the lender or the lender's nominee, prior to the time that funds are disbursed on the loan, as specified. Existing law also requires a real estate licensee who sells, exchanges, or negotiates the sale or exchange of a real property sales contract or a promissory note secured by a trust deed on real property to cause a proper assignment of the contract or trust deed to be executed and recorded, naming as assignee the purchaser or the purchaser's nominee, as specified.

This bill would provide that ~~these requirements do not apply~~ *a trust deed may be recorded in the name of the real estate broker negotiating the loan* if the lenders or purchasers are certain governmental or financial institutions or other

specified persons or entities, ~~provided the loan is secured by or intended to be secured by commercial property~~ *the trust deed is recorded with the county recorder of the county in which the property is located, and the real property securing the loan as described in the trust deed is not a dwelling or unimproved real property.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 10234 of the Business and  
2 Professions Code is amended to read:

3 10234. ~~Every~~ *(a) Except as provided in subdivision*  
4 *(d), every* real estate licensee who negotiates a loan  
5 secured by a trust deed on real property shall cause ~~such~~  
6 *the* trust deed to be recorded, naming as beneficiary the  
7 lender or his or her nominee (who shall not be the  
8 licensee or the licensee’s nominee), with the county  
9 recorder of the county in which the real property is  
10 located prior to the time that any funds are disbursed,  
11 except when the lender has given written authorization  
12 for prior release.

13 ~~If~~  
14 *(b) If* funds are released on the lender’s written  
15 authorization *as described in subdivision (a),* the trust  
16 deed shall be recorded, or delivered to the lender or  
17 beneficiary with a written recommendation that it be  
18 recorded forthwith, within 10 days following release.

19 ~~Every~~  
20 *(c) Every* real estate licensee who sells, exchanges, or  
21 negotiates the sale or exchange of a real property sales  
22 contract or a promissory note secured by a trust deed on  
23 real property shall cause a proper assignment of ~~such the~~  
24 real property sales contract or trust deed to be executed  
25 and shall cause ~~such the~~ assignment to be recorded,  
26 naming as assignee the purchaser or his or her nominee  
27 (who shall not be the licensee or the licensee’s nominee),  
28 with the county recorder of the county in which the real  
29 property is located within 10 working days after the



1 licensee or seller receives any funds from the buyer or  
2 after close of escrow; or shall deliver ~~such~~ *the* real  
3 property sales contract or trust deed to the purchaser  
4 with a written recommendation that the assignment  
5 thereof be recorded forthwith.

6 ~~This section does not apply if (a) the lender or~~

7 *(d) A trust deed may be recorded in the name of the*  
8 *real estate broker negotiating the loan if all of the*  
9 *following apply: (1) the lender or purchaser is any person*  
10 *or entity set forth in paragraph (1) of subdivision (c) of*  
11 *Section 10232, and (b) the loan is secured by or intended*  
12 *to be secured by commercial property. (2) the trust deed*  
13 *is recorded with the county recorder of the county in*  
14 *which the real property is located, and (3) the real*  
15 *property securing the loan as described in the trust deed*  
16 *is not a dwelling as defined in Section 10240.2 or*  
17 *unimproved real property.*

