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Assembly
California Legislature

TED W. LIEU
FIFTY-THIRD ASSEMBLY DISTRICT

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October 4, 2010

Preston DuFauchard
Commissioner, California Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814-4052

VIA FAX AND MAIL

Dear Commissioner DuFauchard:

Evidence has come to light that personnel at major banks have falsely certified foreclosure documents without knowing what was in the documents. In judicial foreclosure states, these allegations range from forgery to false certifications to false notarizations. As a result, lenders such as JP Morgan Chase, Bank of America, and Ally Financial have instituted various voluntary forms of foreclosure moratoriums in the 23 states that have judicial foreclosures.

Although California is a non-judicial foreclosure state, California does have laws that also require certifications by the lender before a foreclosure can proceed. SB 1137, of which I was a co-author, requires lenders/mortgage servicers to contact a borrower in person or by telephone to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. This law also requires lenders/servicers to declare in writing that this was done. The California Foreclosure Prevention Act, of which I was the author, requires lenders to have loan modification programs in place, otherwise the lenders would face a foreclosure moratorium.

California Attorney General Jerry Brown has already issued a cease and desist order to Ally Financial with regard to foreclosures. This shows a high probability that California laws are not being followed.

Based on the above, I am writing to request that the Department of Corporations (DOC) initiate a temporary foreclosure moratorium so that DOC can investigate whether lenders/servicers are complying with SB 1137 and the California Foreclosure Prevention Act. I also request that the DOC get in writing from lenders/servicers certifying that they are complying with SB 1137 and the Foreclosure Prevention Act, and to make this information publicly available.

Thank you for your attention to this matter.

Sincerely,

Ted W. Lieu

TED W. LIEU
Chair, Assembly Select Committee on Consumer Financial Protection

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