



California Corporate & Securities Law

Say It Isn't So! Section 25102(f) To Be Amended To Condition The Exemption On Filing An "F" Notice?

By Keith Paul Bishop on January 12, 2012

The California [Senate Banking and Finance](#) and the [Assembly Business, Professions and Economic Development](#) committees have scheduled a joint informational hearing on hard money lending for January 18, 2012. According to the proposed agenda, legislators will hear from consumers and investors, representatives from the Departments of Real Estate and Corporations, and from the industry.

A "hard money" loan is what you get when money is hard to come by. The term itself does not have a precise legal definition and can cover a wide variety of different types of loans, lenders and borrowers. Consequently, regulation of hard money lenders may fall under the jurisdiction of the Department of Real Estate or the Department of Corporations.

The announced hearing topic suggests that the focus will be on the regulation of lenders. However, the hearing is also expected to cover how lenders raise money to fund loans. Notably, the committees' staff have proposed a number of significant changes to the securities laws that will affect far more issuers than hard money lenders. These include:

- Amending Corporations Code Section 25102(f) to condition the availability of the exemption on filing the required notice;
- Adding a filing requirement (and condition) to the exemption in Corporations Code Section 25102(e);
- Amend the Corporations Code to authorize the Department of Corporations to perform periodic examinations of "those to whom it issues permits";
- Require additional disclosures by issuers who file exemptions with respect to the offer and sale of real estate securities; and
- Impose greater penalties on issuers who accept funds from investors "in violation of the suitability requirements imposed under state and federal law".

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While it remains to be seen whether these recommendations will make it into legislation, legislators often use informational hearings to lay the groundwork for bills that they plan to introduce.

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