

State of California • Department of Justice  
**OFFICE OF THE ATTORNEY GENERAL**  
Edmund G. Brown Jr.

## News Release

April 22, 2010

FOR IMMEDIATE RELEASE

Contact: (510) 622-4500

# Brown Urges U.S. Senate to Preserve Provisions of Financial Reform Package that Allow State-Led Consumer Protection

LOS ANGELES - As a financial reform package advances in the Senate and an unrelenting swarm of Wall Street lobbyists descends on Capitol Hill to block it, Attorney General Edmund G. Brown Jr. today urged senators to preserve a critical portion of the legislation which allows states to join the fight against financial fraud on the front line.

Provisions of the Senate's current bill restore the authority of attorneys general to prosecute financial crimes at the state level, a move that would safeguard consumers, bolster federal oversight, and halt reckless, quick-money schemes before they spiral into national crises.

"Today, more than two years after the recession began, as thousands more Americans lose their homes, jobs and savings, states remain hamstrung in the fight against financial fraud. Even if a state witnesses a crime on its own front porch, it has limited, if any, authority to act," Brown said. "If Congress is committed to preventing another downturn and enacting robust reform, it must preserve the provisions in the current package that untie states' hands and allow us to join the fight."

To press for these provisions, Brown sent letters today to Senators Reid, McConnell, Dodd, Shelby, Feinstein and Boxer urging them to uphold the role of the states in enforcing consumer protection laws. This follows a letter Brown and 39 other state attorneys general sent in November to members of Congress on the same issue.

While big banks on Wall Street announced billions in quarterly profits this week, another 200,000 California homeowners received a foreclosure notice between January and March. During the first three months of 2010, California alone accounted for almost a quarter of the nation's foreclosure activity. Meanwhile, since the recession began, the state's unemployment rate has more than doubled, rising to 12.6 percent in March.

Brown's letter is copied below:

Dear Senator:

As California continues to struggle through the current financial crisis, with one of the highest foreclosure rates in the nation and a 12.6% unemployment rate, I urge you to adopt financial reform legislation that protects consumers against the predatory banking practices that led to this collapse. Ensuring that state Attorneys General have the authority to protect consumers against reckless Wall Street practices is critical to that protection. The current version of the Restoring American Financial Stability Act (SB 3217) gives back to states the authority to take action against national banks. I call on you to ensure that that state authority remains in the final bill, and that you resist the pressure exerted by Wall Street and its lobbyists to maintain the status quo of no government oversight.

Predatory lending and the avalanche of foreclosures it triggered lie at the core of our current crisis. Missing-in-action federal agency enforcement, and, indeed, active federal agency protection of national banks engaged in predatory lending, enabled this crisis. The federal laws and regulations that barred my office from stepping into the void to prosecute those banks and their subsidiaries for their deception contributed significantly. In the end, our current regulatory system gave national banks a free pass, while consumers and

our economy paid the price.

The pending Senate bill gives Congress the opportunity to reverse course and provide a much-needed level playing field between Main Street consumers and Wall Street. The bill does away with regulations that shielded predatory practices and allows states to enforce their own consumer protection laws, and laws adopted by the new federal Consumer Financial Protection Agency, against Wall Street banks.

Wall Street's warning against a resulting unmanageable patchwork of state laws is a red herring. States routinely seek to harmonize their laws with related state and federal laws, and they often work together to bring multistate enforcement actions. Moreover, national banks have demonstrated their ability to market differently to different states when it suits them, as in the case of Pay Option Arm loans targeted to markets like California that, at the time, experienced steeply escalating property values.

And while the bill's new Consumer Financial Protection Agency moves federal oversight in the right direction, it isn't enough. One agency in Washington, regardless of how well-intended, can't have its ears to the ground in all 50 states to prosecute misconduct the way each Attorney General can in his or her home state. State Attorneys General are the cops-on-the-beat who consumers turn to to sound the alarm on new threats targeting them. Prompt state action can limit the spread of those threats before they become national crises.

Congress need look no further than the failure of Washington Mutual to see why state Attorney General enforcement is an essential component of the reform needed to stop opportunistic, predatory actors from taking advantage of lax rules and absent enforcement. The Senate panel investigating the current crisis concluded that WAMU's deceptive lending practices and employee incentive plans that promoted them created a "mortgage time bomb" with toxic loans destined to fail. When that time bomb exploded, and WAMU loans started plunging into foreclosure, federal laws and regulations prevented state Attorneys General from suing WAMU to halt its predatory practices. Instead, that responsibility was reserved for federal regulators who did nothing, notwithstanding the findings of at least one of those regulators that WAMU had engaged in a pattern of fraud and weak risk management.

By contrast, my office and other state Attorneys General have worked together to hold state-licensed banks accountable for their fraudulent practices. After suing Countrywide Financial Corporation and its subsidiaries for predatory lending practices in the Summer of 2008, our settlement with Countrywide forced it to modify loans of homeowners facing foreclosure and to pay restitution to consumers who had lost their homes.

Unfortunately, I couldn't take action against WAMU for the harm it caused Californians in the way I could against Countrywide. And if the existing regulatory structure remains in place, banks will continue to flock to national charters to avoid state action like ours against Countrywide. But, if the Senate steps up and does the right thing now to protect consumers, and the nation's economy, by adopting financial reform that protects the authority of states to enforce consumer protection rights, then we will have real change, and unscrupulous banks won't be able to hide behind federal regulators who were complicit in their misdeeds.

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