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Energy

University of the Pacific; McGeorge School of Law

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Energy

Energy; energy conservation mortgages

Health and Safety Code §§53000, 53001, 53002, 53050, 53052, 53054, 53056, 53058, 53060, 53062, 53100, 53101, 53102, 53103, 53104, 53105, 53106, 53108, 53109, 53110, 53111, 53112, 53113 (new).

SB 921 (Roberti); STATS. 1981, Ch 1033

Support: California Solar Energy Industries Association; Department of Finance; Public Utilities Commission

Chapter 1033 was enacted to reduce the demand on nonrenewable energy sources¹ and to encourage the movement of private capital into renewable energy and conservation investments.² To accomplish these goals, Chapter 1033 creates the Solar Energy Conservation Mortgage Corporation³ (hereinafter referred to as Sunny Mac⁴) as a secondary mortgage institution for the purchase of energy related loans.⁵ Any financial institution⁶ may apply to Sunny Mac to become a member financial institution, and Chapter 1033 allows Sunny Mac to promulgate standards and procedures regarding membership qualifications.⁷

The apparent objective of Sunny Mac is to assist homeowners and small businesses in the transition to solar energy by facilitating financing of energy conservation measures⁸ and structural improvements.⁹ Sunny Mac may not make direct loans,¹⁰ but may purchase, service, sell, lend on the security of, or otherwise deal in secured loans made by other institutions for financing energy conservation measures.¹¹ In addition, Sunny Mac is vested with corporate powers¹² and is authorized to borrow money through the issuance of notes, bonds, debentures,

1. CAL. HEALTH & SAFETY CODE §§53001(a), 53002(b).

2. *Id.* §53002(c), (e).

3. *Id.* §53052. *See also id.* §§53102 (stock of the corporation), 53103, 53104, 53105, 53106 (composition and selection of board of directors).

4. *Id.* §53100.

5. *See* Senator David Roberti, Press Release, *Roberti Solar Energy Conservation and Business Development Bill Passes Assembly*, September 10, 1981 [hereinafter cited as Press Release] (copy on file at the *Pacific Law Journal*).

6. *See* CAL. HEALTH & SAFETY CODE §53056 (definition of financial institution).

7. *Id.* §53110.

8. *See id.* §53054 (definition of energy conservation measure).

9. *Id.* §53101(a); Press Release, *supra* note 5; *see* CAL. HEALTH & SAFETY CODE §53062 (definition of structural improvement).

10. *See* Press Release, *supra* note 5.

11. *See* CAL. HEALTH & SAFETY CODE §53108.

12. *See* CAL. CORP. CODE §207.

mortgage trust certificates, or any other security or secondary mortgage market instrument.¹³ Loans purchased by Sunny Mac pursuant to Chapter 1033 for value, in good faith, and without actual and written notice of any claims against the loans, places the corporation in the status of holder-in-due course¹⁴ of the loans.¹⁵ Any mortgage trust certificates, mortgage-backed bonds, mortgage-backed passthrough certificates or other obligations of the corporation secured by the loans and related deeds of trust that are purchased by the corporation are treated as a legal investment for every executor, administrator, trustee, guardian, or conservator of a natural person, among others,¹⁶ without court order.¹⁷

13. CAL. HEALTH & SAFETY CODE §53109.

14. *See id.* §53060 (definition of holder-in-due course).

15. *Id.* §53111.

16. *See id.* §53112 (others specified include a receiver, fiduciary, public corporation, political subdivision, public instrumentality, charitable institution, educational and eleemosynary institution, bank, trust company, financial institution, insurance company, public or private pension fund or profit sharing trust, or cemetery association).

17. *Id.*