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DA Testifies in Support of State Senate Mortgage Fraud Measure

Merced County District Attorney Larry D. Morse II urged a state senate committee on Tuesday to approve legislation that would give prosecutors new tools to fight an "epidemic" of mortgage fraud in California.

Morse, appearing on behalf of the California District Attorneys Association (CDAA), told members of the Senate Public Safety Committee that mortgage fraud was especially prevalent in the Central Valley which has some of the highest real estate foreclosures rates in the country. He noted that Central Valley prosecutors from several counties have already formed a partnership with the FBI to investigate and prosecute mortgage fraud schemes.

The bill, SB 239, by Sen. Fran Pavley, would create a specific provision for mortgage fraud in California law and specify that it is punishable either as a felony or a misdemeanor. Currently, mortgage fraud has only misdemeanor status in California and prosecutors are forced to rely on general fraud statutes when filing mortgage fraud cases. Sen. Pavley's bill also allows law enforcement to obtain crucial broker and lender records with a court order. Under existing law prosecutors must obtain a search warrant for such records and the lengthy process of writing the required affidavits for each case means many unscrupulous brokers, lenders and agents go unpunished.

Morse, who is co-chair of CDAA's Legislation Committee, told senate committee members that "mortgage fraud cases are among the most difficult cases for any District Attorney's office because they are what we call 'paper cases' requiring a degree of white collar prosecution experience not often found at local levels. They are labor intensive and expensive, especially for counties reeling from budget cuts."

Senate Committee members also heard poignant testimony from Jesus and Antonia Arreola, of Los Banos, who related how they lost their Morgan Hill home as a result of a mortgage fraud scam that victimized 130 homeowners, nearly all of them, immigrants who spoke limited English. The victims were placed in mortgages they couldn't possibly repay, and unknowingly sold second "hard money" mortgages with interest rates as high as 50 percent.

Morse said passage of SB 239 "would given prosecutors important tools to identify and stop those who are preying on the most unsuspecting and vulnerable homebuyers."

The Public Safety Committee voted to approve the measure on a 6-0 vote. If SB 239 becomes law, California will become the fifth state in the nation to adopt a dedicated mortgage fraud statute. Others include Georgia, Arizona, Nevada and North Carolina.