

AMENDED IN SENATE MAY 14, 2013
AMENDED IN SENATE APRIL 22, 2013
AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 310

Introduced by Senator Calderon

February 15, 2013

An act to add Section 2924.26 to, and to add and repeal Section 2924.25 of, the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 310, as amended, Calderon. Mortgages: foreclosure notices: title companies.

Existing law requires a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent to, among other things, contact the borrower prior to filing a notice of default to explore options for the borrower to avoid foreclosure, as specified. Existing law, until January 1, 2018, prohibits a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent from recording a notice of default if a foreclosure prevention alternative is approved in writing prior to the recordation of a notice of default under certain circumstances. Existing law, operative January 1, 2018, prohibits a mortgage servicer, trustee, mortgagee, beneficiary, or authorized agent from recording a notice of sale or conducting a trustee's sale while a foreclosure prevention alternative application submitted by the borrower is pending, as specified. Existing law, until January 1, 2018, prohibits a mortgage servicer, trustee, mortgagee, beneficiary, or authorized agent from recording a notice of default, notice of sale, or conducting a trustee's sale while a complete first lien loan modification application submitted by the borrower is

pending, as specified. Existing law, until January 1, 2018, authorizes a borrower to bring an action for injunctive relief to enjoin a material violation of certain of these provisions if a trustee’s deed of sale has not been recorded.

This bill would exempt a licensed title company or underwritten title company, except when it is acting as a trustee, from liability for a violation of those provisions if it records or causes to record a notice of default or notice of sale at the request of a trustee, substitute trustee, or beneficiary, in good faith and in the normal course of its business activities.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2924.25 is added to the Civil Code, to
 2 read:

3 2924.25. (a) Unless acting in the capacity of a trustee, a
 4 licensed title company or underwritten title company shall not be
 5 liable for a violation of Section 2923.5, 2923.55, 2923.6, 2924.11,
 6 2924.18, or 2924.19 if it records or causes to record a notice of
 7 default or notice of sale at the request of a trustee, substitute trustee,
 8 or beneficiary, in good faith and in the normal course of its business
 9 activities.

10 (b) This section shall remain in effect only until January 1, 2018,
 11 and as of that date is repealed, unless a later enacted statute, that
 12 is enacted before January 1, 2018, deletes or extends that date.

13 SEC. 2. Section 2924.26 is added to the Civil Code, to read:

14 2924.26. (a) Unless acting in the capacity of a trustee, a
 15 licensed title company or underwritten title company shall not be
 16 liable for a violation of Section 2923.5 or ~~Section~~ 2924.11 if it
 17 records or causes to record a notice of default or notice of sale at
 18 the request of a trustee, substitute trustee, or beneficiary, in good
 19 faith and in the normal course of its business activities.

20 (b) This section shall become operative on January 1, 2018.

21 SEC. 3. *Sections 2924.25 and 2924.26 shall not be construed*
 22 *to affect the liability of a trustee, substitute trustee, or beneficiary*

- 1 *that requests a licensed title company or underwritten title*
- 2 *company to record a notice of default or notice of sale.*

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