

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1221

Introduced by Senator Calderon

February 18, 2010

An act to amend Sections 2924 and 2924c of the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1221, as amended, Calderon. Mortgages: notice of sale.

Existing law requires that, upon a breach of the obligation of a mortgage or transfer of an interest in property, the trustee, mortgagee, or beneficiary record a notice of default in the office of the county recorder where the mortgaged or trust property is situated and mail the notice of default to the mortgagor or trustor. After the lapse of not less than 3 months from the filing of the notice of default, the mortgagee, trustee, or other person authorized to take the sale is required to give notice of sale, stating the time and place, as specified.

This bill would ~~instead require those persons to give notice of sale after the lapse of not less than 85 days, rather than 3 months, from~~ *permit a mortgagee, trustee, or other person authorized to take sale to file a notice of sale up to 5 days before the lapse of the 3-month period provided that the date of sale is no earlier than 3 months and 20 days after the filing of the notice of default.* The bill would make a conforming change.

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 of the Civil Code, as added by
2 Section 8 of Chapter 4 of the 2nd Extraordinary Session of the
3 Statutes of 2009, is amended to read:

4 2924. (a) Every transfer of an interest in property, other than
5 in trust, made only as a security for the performance of another
6 act, is to be deemed a mortgage, except when in the case of
7 personal property it is accompanied by actual change of possession,
8 in which case it is to be deemed a pledge. Where, by a mortgage
9 created after July 27, 1917, of any estate in real property, other
10 than an estate at will or for years, less than two, or in any transfer
11 in trust made after July 27, 1917, of a like estate to secure the
12 performance of an obligation, a power of sale is conferred upon
13 the mortgagee, trustee, or any other person, to be exercised after
14 a breach of the obligation for which that mortgage or transfer is a
15 security, the power shall not be exercised except where the
16 mortgage or transfer is made pursuant to an order, judgment, or
17 decree of a court of record, or to secure the payment of bonds or
18 other evidences of indebtedness authorized or permitted to be
19 issued by the Commissioner of Corporations, or is made by a public
20 utility subject to the provisions of the Public Utilities Act, until
21 all of the following apply:

22 (1) The trustee, mortgagee, or beneficiary, or any of their
23 authorized agents shall first file for record, in the office of the
24 recorder of each county wherein the mortgaged or trust property
25 or some part or parcel thereof is situated, a notice of default. That
26 notice of default shall include all of the following:

27 (A) A statement identifying the mortgage or deed of trust by
28 stating the name or names of the trustor or trustors and giving the
29 book and page, or instrument number, if applicable, where the
30 mortgage or deed of trust is recorded or a description of the
31 mortgaged or trust property.

32 (B) A statement that a breach of the obligation for which the
33 mortgage or transfer in trust is security has occurred.

34 (C) A statement setting forth the nature of each breach actually
35 known to the beneficiary and of his or her election to sell or cause
36 to be sold the property to satisfy that obligation and any other
37 obligation secured by the deed of trust or mortgage that is in
38 default.

1 (D) If the default is curable pursuant to Section 2924c, the
2 statement specified in paragraph (1) of subdivision (b) of Section
3 2924c.

4 (2) Not less than three months shall elapse from the filing of
5 the notice of default.

6 (3) ~~After~~ *Except as provided in paragraph (4), after* the lapse
7 of the three months described in paragraph (2), the mortgagee,
8 trustee, or other person authorized to take the sale shall give notice
9 of sale, stating the time and place thereof, in the manner and for
10 a time not less than that set forth in Section 2924f.

11 (4) *Notwithstanding paragraph (3), the mortgagee, trustee, or*
12 *other person authorized to take sale may file a notice of sale*
13 *pursuant to Section 2924f up to five days before the lapse of the*
14 *three-month period described in paragraph (2), provided that the*
15 *date of sale is no earlier than three months and 20 days after the*
16 *filing of the notice of default.*

17 (b) In performing acts required by this article, the trustee shall
18 incur no liability for any good faith error resulting from reliance
19 on information provided in good faith by the beneficiary regarding
20 the nature and the amount of the default under the secured
21 obligation, deed of trust, or mortgage. In performing the acts
22 required by this article, a trustee shall not be subject to Title 1.6c
23 (commencing with Section 1788) of Part 4.

24 (c) A recital in the deed executed pursuant to the power of sale
25 of compliance with all requirements of law regarding the mailing
26 of copies of notices or the publication of a copy of the notice of
27 default or the personal delivery of the copy of the notice of default
28 or the posting of copies of the notice of sale or the publication of
29 a copy thereof shall constitute prima facie evidence of compliance
30 with these requirements and conclusive evidence thereof in favor
31 of bona fide purchasers and encumbrancers for value and without
32 notice.

33 (d) All of the following shall constitute privileged
34 communications pursuant to Section 47:

35 (1) The mailing, publication, and delivery of notices as required
36 by this section.

37 (2) Performance of the procedures set forth in this article.

38 (3) Performance of the functions and procedures set forth in
39 this article if those functions and procedures are necessary to carry

1 out the duties described in Sections 729.040, 729.050, and 729.080
2 of the Code of Civil Procedure.

3 (e) There is a rebuttable presumption that the beneficiary
4 actually knew of all unpaid loan payments on the obligation owed
5 to the beneficiary and secured by the deed of trust or mortgage
6 subject to the notice of default. However, the failure to include an
7 actually known default shall not invalidate the notice of sale and
8 the beneficiary shall not be precluded from asserting a claim to
9 this omitted default or defaults in a separate notice of default.

10 (f) This section shall become operative on January 1, 2011.

11 *SEC. 2. Section 2924 of the Civil Code, as added by Section 8*
12 *of Chapter 5 of the 2nd Extraordinary Session of the Statutes of*
13 *2009, is amended to read:*

14 2924. (a) Every transfer of an interest in property, other than
15 in trust, made only as a security for the performance of another
16 act, is to be deemed a mortgage, except when in the case of
17 personal property it is accompanied by actual change of possession,
18 in which case it is to be deemed a pledge. Where, by a mortgage
19 created after July 27, 1917, of any estate in real property, other
20 than an estate at will or for years, less than two, or in any transfer
21 in trust made after July 27, 1917, of a like estate to secure the
22 performance of an obligation, a power of sale is conferred upon
23 the mortgagee, trustee, or any other person, to be exercised after
24 a breach of the obligation for which that mortgage or transfer is a
25 security, the power shall not be exercised except where the
26 mortgage or transfer is made pursuant to an order, judgment, or
27 decree of a court of record, or to secure the payment of bonds or
28 other evidences of indebtedness authorized or permitted to be
29 issued by the Commissioner of Corporations, or is made by a public
30 utility subject to the provisions of the Public Utilities Act, until
31 all of the following apply:

32 (1) The trustee, mortgagee, or beneficiary, or any of their
33 authorized agents shall first file for record, in the office of the
34 recorder of each county wherein the mortgaged or trust property
35 or some part or parcel thereof is situated, a notice of default. That
36 notice of default shall include all of the following:

37 (A) A statement identifying the mortgage or deed of trust by
38 stating the name or names of the trustor or trustors and giving the
39 book and page, or instrument number, if applicable, where the

1 mortgage or deed of trust is recorded or a description of the
2 mortgaged or trust property.

3 (B) A statement that a breach of the obligation for which the
4 mortgage or transfer in trust is security has occurred.

5 (C) A statement setting forth the nature of each breach actually
6 known to the beneficiary and of his or her election to sell or cause
7 to be sold the property to satisfy that obligation and any other
8 obligation secured by the deed of trust or mortgage that is in
9 default.

10 (D) If the default is curable pursuant to Section 2924c, the
11 statement specified in paragraph (1) of subdivision (b) of Section
12 2924c.

13 (2) Not less than three months shall elapse from the filing of
14 the notice of default.

15 (3) ~~After~~ *Except as provided in paragraph (4), after* the lapse
16 of the three months described in paragraph (2), the mortgagee,
17 trustee, or other person authorized to take the sale shall give notice
18 of sale, stating the time and place thereof, in the manner and for
19 a time not less than that set forth in Section 2924f.

20 (4) *Notwithstanding paragraph (3), the mortgagee, trustee, or*
21 *other person authorized to take sale may file a notice of sale*
22 *pursuant to Section 2924f up to five days before the lapse of the*
23 *three-month period described in paragraph (2), provided that the*
24 *date of sale is no earlier than three months and 20 days after the*
25 *filing of the notice of default.*

26 (b) In performing acts required by this article, the trustee shall
27 incur no liability for any good faith error resulting from reliance
28 on information provided in good faith by the beneficiary regarding
29 the nature and the amount of the default under the secured
30 obligation, deed of trust, or mortgage. In performing the acts
31 required by this article, a trustee shall not be subject to Title 1.6c
32 (commencing with Section 1788) of Part 4.

33 (c) A recital in the deed executed pursuant to the power of sale
34 of compliance with all requirements of law regarding the mailing
35 of copies of notices or the publication of a copy of the notice of
36 default or the personal delivery of the copy of the notice of default
37 or the posting of copies of the notice of sale or the publication of
38 a copy thereof shall constitute prima facie evidence of compliance
39 with these requirements and conclusive evidence thereof in favor

1 of bona fide purchasers and encumbrancers for value and without
2 notice.

3 (d) All of the following shall constitute privileged
4 communications pursuant to Section 47:

5 (1) The mailing, publication, and delivery of notices as required
6 by this section.

7 (2) Performance of the procedures set forth in this article.

8 (3) Performance of the functions and procedures set forth in
9 this article if those functions and procedures are necessary to carry
10 out the duties described in Sections 729.040, 729.050, and 729.080
11 of the Code of Civil Procedure.

12 (e) There is a rebuttable presumption that the beneficiary
13 actually knew of all unpaid loan payments on the obligation owed
14 to the beneficiary and secured by the deed of trust or mortgage
15 subject to the notice of default. However, the failure to include an
16 actually known default shall not invalidate the notice of sale and
17 the beneficiary shall not be precluded from asserting a claim to
18 this omitted default or defaults in a separate notice of default.

19 (f) This section shall become operative on January 1, 2011.

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28 ~~created after July 27, 1917, of any estate in real property, other~~
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32 ~~the mortgagee, trustee, or any other person, to be exercised after~~
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35 ~~mortgage or transfer is made pursuant to an order, judgment, or~~
36 ~~decree of a court of record, or to secure the payment of bonds or~~
37 ~~other evidences of indebtedness authorized or permitted to be~~
38 ~~issued by the Commissioner of Corporations, or is made by a public~~
39 ~~utility subject to the provisions of the Public Utilities Act, until~~
40 ~~all of the following apply:~~

1 ~~(1) The trustee, mortgagee, or beneficiary, or any of their~~
2 ~~authorized agents shall first file for record, in the office of the~~
3 ~~recorder of each county wherein the mortgaged or trust property~~
4 ~~or some part or parcel thereof is situated, a notice of default. That~~
5 ~~notice of default shall include all of the following:~~

6 ~~(A) A statement identifying the mortgage or deed of trust by~~
7 ~~stating the name or names of the trustor or trustors and giving the~~
8 ~~book and page, or instrument number, if applicable, where the~~
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10 ~~mortgaged or trust property.~~

11 ~~(B) A statement that a breach of the obligation for which the~~
12 ~~mortgage or transfer in trust is security has occurred.~~

13 ~~(C) A statement setting forth the nature of each breach actually~~
14 ~~known to the beneficiary and of his or her election to sell or cause~~
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17 ~~default.~~

18 ~~(D) If the default is curable pursuant to Section 2924c, the~~
19 ~~statement specified in paragraph (1) of subdivision (b) of Section~~
20 ~~2924c.~~

21 ~~(2) Not less than three months shall elapse from the filing of~~
22 ~~the notice of default.~~

23 ~~(3) After the lapse of not less than 85 days from the filing of~~
24 ~~the notice of default, the mortgagee, trustee, or other person~~
25 ~~authorized to take the sale shall give notice of sale, stating the time~~
26 ~~and place thereof, in the manner and for a time not less than that~~
27 ~~set forth in Section 2924f.~~

28 ~~(b) In performing acts required by this article, the trustee shall~~
29 ~~incur no liability for any good faith error resulting from reliance~~
30 ~~on information provided in good faith by the beneficiary regarding~~
31 ~~the nature and the amount of the default under the secured~~
32 ~~obligation, deed of trust, or mortgage. In performing the acts~~
33 ~~required by this article, a trustee shall not be subject to Title 1.6e~~
34 ~~(commencing with Section 1788) of Part 4.~~

35 ~~(c) A recital in the deed executed pursuant to the power of sale~~
36 ~~of compliance with all requirements of law regarding the mailing~~
37 ~~of copies of notices or the publication of a copy of the notice of~~
38 ~~default or the personal delivery of the copy of the notice of default~~
39 ~~or the posting of copies of the notice of sale or the publication of~~
40 ~~a copy thereof shall constitute prima facie evidence of compliance~~

1 with these requirements and conclusive evidence thereof in favor
2 of bona fide purchasers and encumbrancers for value and without
3 notice.

4 ~~(d) All of the following shall constitute privileged
5 communications pursuant to Section 47:~~

6 ~~(1) The mailing, publication, and delivery of notices as required
7 by this section.~~

8 ~~(2) Performance of the procedures set forth in this article.~~

9 ~~(3) Performance of the functions and procedures set forth in
10 this article if those functions and procedures are necessary to carry
11 out the duties described in Sections 729.040, 729.050, and 729.080
12 of the Code of Civil Procedure.~~

13 ~~(e) There is a rebuttable presumption that the beneficiary
14 actually knew of all unpaid loan payments on the obligation owed
15 to the beneficiary and secured by the deed of trust or mortgage
16 subject to the notice of default. However, the failure to include an
17 actually known default shall not invalidate the notice of sale and
18 the beneficiary shall not be precluded from asserting a claim to
19 this omitted default or defaults in a separate notice of default.~~

20 ~~(f) This section shall become operative on January 1, 2011.~~

21 ~~SEC. 2. Section 2924 of the Civil Code, as added by Section
22 8 of Chapter 5 of the Second Extraordinary Session of the Statutes
23 of 2009, is amended to read:~~

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29 created after July 27, 1917, of any estate in real property, other
30 than an estate at will or for years, less than two, or in any transfer
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36 mortgage or transfer is made pursuant to an order, judgment, or
37 decree of a court of record, or to secure the payment of bonds or
38 other evidences of indebtedness authorized or permitted to be
39 issued by the Commissioner of Corporations, or is made by a public~~

1 utility subject to the provisions of the Public Utilities Act, until
2 all of the following apply:

3 (1) The trustee, mortgagee, or beneficiary, or any of their
4 authorized agents shall first file for record, in the office of the
5 recorder of each county wherein the mortgaged or trust property
6 or some part or parcel thereof is situated, a notice of default. That
7 notice of default shall include all of the following:

8 (A) A statement identifying the mortgage or deed of trust by
9 stating the name or names of the trustor or trustors and giving the
10 book and page, or instrument number, if applicable, where the
11 mortgage or deed of trust is recorded or a description of the
12 mortgaged or trust property.

13 (B) A statement that a breach of the obligation for which the
14 mortgage or transfer in trust is security has occurred.

15 (C) A statement setting forth the nature of each breach actually
16 known to the beneficiary and of his or her election to sell or cause
17 to be sold the property to satisfy that obligation and any other
18 obligation secured by the deed of trust or mortgage that is in
19 default.

20 (D) If the default is curable pursuant to Section 2924c, the
21 statement specified in paragraph (1) of subdivision (b) of Section
22 2924c.

23 (2) Not less than three months shall elapse from the filing of
24 the notice of default.

25 (3) After the lapse of not less than 85 days from the filing of
26 the notice of default, the mortgagee, trustee, or other person
27 authorized to take the sale shall give notice of sale, stating the time
28 and place thereof, in the manner and for a time not less than that
29 set forth in Section 2924f.

30 (b) In performing acts required by this article, the trustee shall
31 incur no liability for any good faith error resulting from reliance
32 on information provided in good faith by the beneficiary regarding
33 the nature and the amount of the default under the secured
34 obligation, deed of trust, or mortgage. In performing the acts
35 required by this article, a trustee shall not be subject to Title 1.6c
36 (commencing with Section 1788) of Part 4.

37 (e) A recital in the deed executed pursuant to the power of sale
38 of compliance with all requirements of law regarding the mailing
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1 or the posting of copies of the notice of sale or the publication of
2 a copy thereof shall constitute prima facie evidence of compliance
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5 notice.

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10 ~~(2) Performance of the procedures set forth in this article.~~

11 ~~(3) Performance of the functions and procedures set forth in~~
12 ~~this article if those functions and procedures are necessary to carry~~
13 ~~out the duties described in Sections 729.040, 729.050, and 729.080~~
14 ~~of the Code of Civil Procedure.~~

15 ~~(e) There is a rebuttable presumption that the beneficiary~~
16 ~~actually knew of all unpaid loan payments on the obligation owed~~
17 ~~to the beneficiary and secured by the deed of trust or mortgage~~
18 ~~subject to the notice of default. However, the failure to include an~~
19 ~~actually known default shall not invalidate the notice of sale and~~
20 ~~the beneficiary shall not be precluded from asserting a claim to~~
21 ~~this omitted default or defaults in a separate notice of default.~~

22 ~~(f) This section shall become operative on January 1, 2011.~~

23 SEC. 3. Section 2924c of the Civil Code is amended to read:

24 2924c. (a) (1) Whenever all or a portion of the principal sum
25 of any obligation secured by deed of trust or mortgage on real
26 property or an estate for years therein hereafter executed has, prior
27 to the maturity date fixed in that obligation, become due or been
28 declared due by reason of default in payment of interest or of any
29 installment of principal, or by reason of failure of trustor or
30 mortgagor to pay, in accordance with the terms of that obligation
31 or of the deed of trust or mortgage, taxes, assessments, premiums
32 for insurance, or advances made by beneficiary or mortgagee in
33 accordance with the terms of that obligation or of the deed of trust
34 or mortgage, the trustor or mortgagor or his or her successor in
35 interest in the mortgaged or trust property or any part thereof, or
36 any beneficiary under a subordinate deed of trust or any other
37 person having a subordinate lien or encumbrance of record thereon,
38 at any time within the period specified in subdivision (e), if the
39 power of sale therein is to be exercised, or, otherwise at any time
40 prior to entry of the decree of foreclosure, may pay to the

1 beneficiary or the mortgagee or their successors in interest,
2 respectively, the entire amount due, at the time payment is
3 tendered, with respect to (A) all amounts of principal, interest,
4 taxes, assessments, insurance premiums, or advances actually
5 known by the beneficiary to be, and that are, in default and shown
6 in the notice of default, under the terms of the deed of trust or
7 mortgage and the obligation secured thereby, (B) all amounts in
8 default on recurring obligations not shown in the notice of default,
9 and (C) all reasonable costs and expenses, subject to subdivision
10 (c), which are actually incurred in enforcing the terms of the
11 obligation, deed of trust, or mortgage, and trustee's or attorney's
12 fees, subject to subdivision (d), other than the portion of principal
13 as would not then be due had no default occurred, and thereby cure
14 the default theretofore existing, and thereupon, all proceedings
15 theretofore had or instituted shall be dismissed or discontinued
16 and the obligation and deed of trust or mortgage shall be reinstated
17 and shall be and remain in force and effect, the same as if the
18 acceleration had not occurred. This section does not apply to bonds
19 or other evidences of indebtedness authorized or permitted to be
20 issued by the Commissioner of Corporations or made by a public
21 utility subject to the Public Utilities Code. For the purposes of this
22 subdivision, the term "recurring obligation" means all amounts of
23 principal and interest on the loan, or rents, subject to the deed of
24 trust or mortgage in default due after the notice of default is
25 recorded; all amounts of principal and interest or rents advanced
26 on senior liens or leaseholds which are advanced after the
27 recordation of the notice of default; and payments of taxes,
28 assessments, and hazard insurance advanced after recordation of
29 the notice of default. If the beneficiary or mortgagee has made no
30 advances on defaults which would constitute recurring obligations,
31 the beneficiary or mortgagee may require the trustor or mortgagor
32 to provide reliable written evidence that the amounts have been
33 paid prior to reinstatement.

34 (2) If the trustor, mortgagor, or other person authorized to cure
35 the default pursuant to this subdivision does cure the default, the
36 beneficiary or mortgagee or the agent for the beneficiary or
37 mortgagee shall, within 21 days following the reinstatement,
38 execute and deliver to the trustee a notice of rescission which
39 rescinds the declaration of default and demand for sale and advises
40 the trustee of the date of reinstatement. The trustee shall cause the

1 notice of rescission to be recorded within 30 days of receipt of the
2 notice of rescission and of all allowable fees and costs.

3 No charge, except for the recording fee, shall be made against
4 the trustor or mortgagor for the execution and recordation of the
5 notice which rescinds the declaration of default and demand for
6 sale.

7 (b) (1) The notice, of any default described in this section,
8 recorded pursuant to Section 2924, and mailed to any person
9 pursuant to Section 2924b, shall begin with the following
10 statement, printed or typed thereon:

11
12 “IMPORTANT NOTICE [14-point boldface type if printed or
13 in capital letters if typed]
14

15 IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE
16 YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD
17 WITHOUT ANY COURT ACTION, [14-point boldface type if
18 printed or in capital letters if typed] and you may have the legal
19 right to bring your account in good standing by paying all of your
20 past due payments plus permitted costs and expenses within the
21 time permitted by law for reinstatement of your account, which is
22 normally five business days prior to the date set for the sale of
23 your property. No sale date may be set until ~~85~~ *approximately 90*
24 days from the date this notice of default may be recorded (which
25 date of recordation appears on this notice).

26
27 This amount is _____ as of _____
28 (Date)
29

30 and will increase until your account becomes current.

31 While your property is in foreclosure, you still must pay other
32 obligations (such as insurance and taxes) required by your note
33 and deed of trust or mortgage. If you fail to make future payments
34 on the loan, pay taxes on the property, provide insurance on the
35 property, or pay other obligations as required in the note and deed
36 of trust or mortgage, the beneficiary or mortgagee may insist that
37 you do so in order to reinstate your account in good standing. In
38 addition, the beneficiary or mortgagee may require as a condition
39 to reinstatement that you provide reliable written evidence that

1 you paid all senior liens, property taxes, and hazard insurance
2 premiums.

3 Upon your written request, the beneficiary or mortgagee will
4 give you a written itemization of the entire amount you must pay.
5 You may not have to pay the entire unpaid portion of your account,
6 even though full payment was demanded, but you must pay all
7 amounts in default at the time payment is made. However, you
8 and your beneficiary or mortgagee may mutually agree in writing
9 prior to the time the notice of sale is posted (which may not be
10 earlier than ~~the end of the 85-day period stated above~~) *three months*
11 *after this notice of default is recorded*) to, among other things, (1)
12 provide additional time in which to cure the default by transfer of
13 the property or otherwise; or (2) establish a schedule of payments
14 in order to cure your default; or both (1) and (2).

15 Following the expiration of the time period referred to in the
16 first paragraph of this notice, unless the obligation being foreclosed
17 upon or a separate written agreement between you and your creditor
18 permits a longer period, you have only the legal right to stop the
19 sale of your property by paying the entire amount demanded by
20 your creditor.

21 To find out the amount you must pay, or to arrange for payment
22 to stop the foreclosure, or if your property is in foreclosure for any
23 other reason, contact:

24

25 _____

26 (Name of beneficiary or mortgagee)

27 _____

28 (Mailing address)

29 _____

30 (Telephone)

31

32 If you have any questions, you should contact a lawyer or the
33 governmental agency which may have insured your loan.

34 Notwithstanding the fact that your property is in foreclosure,
35 you may offer your property for sale, provided the sale is concluded
36 prior to the conclusion of the foreclosure.

37 Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO**
38 **NOT TAKE PROMPT ACTION.** [14-point boldface type if printed
39 or in capital letters if typed]”

1 Unless otherwise specified, the notice, if printed, shall appear
2 in at least 12-point boldface type.

3 If the obligation secured by the deed of trust or mortgage is a
4 contract or agreement described in paragraph (1) or (4) of
5 subdivision (a) of Section 1632, the notice required herein shall
6 be in Spanish if the trustor requested a Spanish language translation
7 of the contract or agreement pursuant to Section 1632. If the
8 obligation secured by the deed of trust or mortgage is contained
9 in a home improvement contract, as defined in Sections 7151.2
10 and 7159 of the Business and Professions Code, which is subject
11 to Title 2 (commencing with Section 1801), the seller shall specify
12 on the contract whether or not the contract was principally
13 negotiated in Spanish and if the contract was principally negotiated
14 in Spanish, the notice required herein shall be in Spanish. No
15 assignee of the contract or person authorized to record the notice
16 of default shall incur any obligation or liability for failing to mail
17 a notice in Spanish unless Spanish is specified in the contract or
18 the assignee or person has actual knowledge that the secured
19 obligation was principally negotiated in Spanish. Unless specified
20 in writing to the contrary, a copy of the notice required by
21 subdivision (c) of Section 2924b shall be in English.

22 (2) Any failure to comply with the provisions of this subdivision
23 shall not affect the validity of a sale in favor of a bona fide
24 purchaser or the rights of an encumbrancer for value and without
25 notice.

26 (c) Costs and expenses which may be charged pursuant to
27 Sections 2924 to 2924i, inclusive, shall be limited to the costs
28 incurred for recording, mailing, including certified and express
29 mail charges, publishing, and posting notices required by Sections
30 2924 to 2924i, inclusive, postponement pursuant to Section 2924g
31 not to exceed fifty dollars (\$50) per postponement and a fee for a
32 trustee’s sale guarantee or, in the event of judicial foreclosure, a
33 litigation guarantee. For purposes of this subdivision, a trustee or
34 beneficiary may purchase a trustee’s sale guarantee at a rate
35 meeting the standards contained in Sections 12401.1 and 12401.3
36 of the Insurance Code.

37 (d) Trustee’s or attorney’s fees which may be charged pursuant
38 to subdivision (a), or until the notice of sale is deposited in the
39 mail to the trustor as provided in Section 2924b, if the sale is by
40 power of sale contained in the deed of trust or mortgage, or,

1 otherwise at any time prior to the decree of foreclosure, are hereby
2 authorized to be in a base amount that does not exceed three
3 hundred dollars (\$300) if the unpaid principal sum secured is one
4 hundred fifty thousand dollars (\$150,000) or less, or two hundred
5 fifty dollars (\$250) if the unpaid principal sum secured exceeds
6 one hundred fifty thousand dollars (\$150,000), plus one-half of 1
7 percent of the unpaid principal sum secured exceeding fifty
8 thousand dollars (\$50,000) up to and including one hundred fifty
9 thousand dollars (\$150,000), plus one-quarter of 1 percent of any
10 portion of the unpaid principal sum secured exceeding one hundred
11 fifty thousand dollars (\$150,000) up to and including five hundred
12 thousand dollars (\$500,000), plus one-eighth of 1 percent of any
13 portion of the unpaid principal sum secured exceeding five hundred
14 thousand dollars (\$500,000). Any charge for trustee's or attorney's
15 fees authorized by this subdivision shall be conclusively presumed
16 to be lawful and valid where the charge does not exceed the
17 amounts authorized herein. For purposes of this subdivision, the
18 unpaid principal sum secured shall be determined as of the date
19 the notice of default is recorded.

20 (e) Reinstatement of a monetary default under the terms of an
21 obligation secured by a deed of trust, or mortgage may be made
22 at any time within the period commencing with the date of
23 recordation of the notice of default until five business days prior
24 to the date of sale set forth in the initial recorded notice of sale.

25 In the event the sale does not take place on the date set forth in
26 the initial recorded notice of sale or a subsequent recorded notice
27 of sale is required to be given, the right of reinstatement shall be
28 revived as of the date of recordation of the subsequent notice of
29 sale, and shall continue from that date until five business days
30 prior to the date of sale set forth in the subsequently recorded notice
31 of sale.

32 In the event the date of sale is postponed on the date of sale set
33 forth in either an initial or any subsequent notice of sale, or is
34 postponed on the date declared for sale at an immediately preceding
35 postponement of sale, and, the postponement is for a period which
36 exceeds five business days from the date set forth in the notice of
37 sale, or declared at the time of postponement, then the right of
38 reinstatement is revived as of the date of postponement and shall
39 continue from that date until five business days prior to the date
40 of sale declared at the time of the postponement.

1 Nothing contained herein shall give rise to a right of
2 reinstatement during the period of five business days prior to the
3 date of sale, whether the date of sale is noticed in a notice of sale
4 or declared at a postponement of sale.

5 Pursuant to the terms of this subdivision, no beneficiary, trustee,
6 mortgagee, or their agents or successors shall be liable in any
7 manner to a trustor, mortgagor, their agents or successors or any
8 beneficiary under a subordinate deed of trust or mortgage or any
9 other person having a subordinate lien or encumbrance of record
10 thereon for the failure to allow a reinstatement of the obligation
11 secured by a deed of trust or mortgage during the period of five
12 business days prior to the sale of the security property, and no such
13 right of reinstatement during this period is created by this section.
14 Any right of reinstatement created by this section is terminated
15 five business days prior to the date of sale set forth in the initial
16 date of sale, and is revived only as prescribed herein and only as
17 of the date set forth herein.

18 As used in this subdivision, the term “business day” has the same
19 meaning as specified in Section 9.