

AMENDED IN ASSEMBLY MAY 14, 2012

AMENDED IN ASSEMBLY APRIL 26, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2273**

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**Introduced by Assembly Member Wieckowski**  
*(Coauthor: Assembly Member Dickinson)*

February 24, 2012

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An act to amend Section ~~1368~~ 2924*b* of, and to add Section 2924.1 to, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2273, as amended, Wieckowski. Common interest developments: required documents.

~~(1) The Davis-Stirling Common Interest Development Act requires an owner of a separate interest in a common interest development to provide specified documents to a prospective purchaser of that interest. Existing law requires a homeowners' association to provide these documents to the owner of the separate interest within 10 days of the mailing or delivery of the request, and limits the amount of fees charged for the provision of the documents to the association's actual costs to procure, prepare, and reproduce the requested documents.~~

~~This bill would additionally provide that an acquiring owner of a separate interest shall provide to the association's board secretary, agent, manager, or designated representative a written notice of the acquiring owner's mailing address within 30 days of receiving title, except as specified.~~

~~(2)~~

*The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. Under existing law, a common interest development is managed by an association pursuant to the provisions of the governing documents of the development. Existing law also imposes various requirements that must be satisfied prior to exercising a power of sale under a mortgage or deed of trust.*

~~This bill would, notwithstanding any other law, impose certain requirements on the~~ *require the transfer, following the sale, of a property in a common interest development, as defined, executed under a power of sale contained in any deed of trust or mortgage. Among other things, the bill would require the sale to take place in the county where the property or a portion of the property is located, and would also require the sale to be recorded within 30 days, as specified.*

~~This bill would also make the purchaser, as specified, liable for the amount of certain unpaid liens recorded on the property if the sale is not recorded as described above. The bill would specify that these provisions would only apply if the purchaser is also the person or entity that exercised the power of sale on the property.~~

*Existing law requires a trustee or mortgagee to record a notice of default and to post and publish a notice of sale prior to selling real property at a foreclosure sale. Existing law allows an association, with respect to separate interests governed by the association, to record a single request that a mortgagee, trustee, or other person authorized to record a notice of default regarding any of those separate interests mail to the association a copy of any trustee's deed upon sale concerning a separate interest, as specified. Existing law requires that the information requested by the association be mailed within 15 business days following the date the trustee's deed is recorded.*

*This bill would instead require that the requested information described above be mailed to the association within 15 business days following the date of the trustee's sale.*

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 1368 of the Civil Code is amended to~~  
2 read:

1 1368. (a) ~~The owner of a separate interest, other than an owner~~  
2 ~~subject to the requirements of Section 11018.6 of the Business and~~  
3 ~~Professions Code, shall, as soon as practicable before transfer of~~  
4 ~~title to the separate interest or execution of a real property sales~~  
5 ~~contract therefor, as defined in Section 2985, provide the following~~  
6 ~~to the prospective purchaser:~~

7 (1) ~~A copy of the governing documents of the common interest~~  
8 ~~development, including any operating rules, and including a copy~~  
9 ~~of the association's articles of incorporation, or, if not incorporated,~~  
10 ~~a statement in writing from an authorized representative of the~~  
11 ~~association that the association is not incorporated.~~

12 (2) ~~If there is a restriction in the governing documents limiting~~  
13 ~~the occupancy, residency, or use of a separate interest on the basis~~  
14 ~~of age in a manner different from that provided in Section 51.3, a~~  
15 ~~statement that the restriction is only enforceable to the extent~~  
16 ~~permitted by Section 51.3 and a statement specifying the applicable~~  
17 ~~provisions of Section 51.3.~~

18 (3) ~~A copy of the most recent documents distributed pursuant~~  
19 ~~to Section 1365.~~

20 (4) ~~A true statement in writing obtained from an authorized~~  
21 ~~representative of the association as to the amount of the~~  
22 ~~association's current regular and special assessments and fees, any~~  
23 ~~assessments levied upon the owner's interest in the common~~  
24 ~~interest development that are unpaid on the date of the statement,~~  
25 ~~and any monetary fines or penalties levied upon the owner's~~  
26 ~~interest and unpaid on the date of the statement. The statement~~  
27 ~~obtained from an authorized representative shall also include true~~  
28 ~~information on late charges, interest, and costs of collection which,~~  
29 ~~as of the date of the statement, are or may be made a lien upon the~~  
30 ~~owner's interest in a common interest development pursuant to~~  
31 ~~Section 1367 or 1367.1.~~

32 (5) ~~A copy or a summary of any notice previously sent to the~~  
33 ~~owner pursuant to subdivision (h) of Section 1363 that sets forth~~  
34 ~~any alleged violation of the governing documents that remains~~  
35 ~~unresolved at the time of the request. The notice shall not be~~  
36 ~~deemed a waiver of the association's right to enforce the governing~~  
37 ~~documents against the owner or the prospective purchaser of the~~  
38 ~~separate interest with respect to any violation. This paragraph shall~~  
39 ~~not be construed to require an association to inspect an owner's~~  
40 ~~separate interest.~~

1     ~~(6) A copy of the initial list of defects provided to each member~~  
 2 ~~of the association pursuant to Section 1375, unless the association~~  
 3 ~~and the builder subsequently enter into a settlement agreement or~~  
 4 ~~otherwise resolve the matter and the association complies with~~  
 5 ~~Section 1375.1. Disclosure of the initial list of defects pursuant to~~  
 6 ~~this paragraph does not waive any privilege attached to the~~  
 7 ~~document. The initial list of defects shall also include a statement~~  
 8 ~~that a final determination as to whether the list of defects is accurate~~  
 9 ~~and complete has not been made.~~

10     ~~(7) A copy of the latest information provided for in Section~~  
 11 ~~1375.1.~~

12     ~~(8) Any change in the association’s current regular and special~~  
 13 ~~assessments and fees which have been approved by the~~  
 14 ~~association’s board of directors, but have not become due and~~  
 15 ~~payable as of the date disclosure is provided pursuant to this~~  
 16 ~~subdivision.~~

17     ~~(9) If there is a provision in the governing documents that~~  
 18 ~~prohibits the rental or leasing of any of the separate interests in~~  
 19 ~~the common interest development to a renter, lessee, or tenant, a~~  
 20 ~~statement describing the prohibition and its applicability.~~

21     ~~(10) If requested by the prospective purchaser, a copy of the~~  
 22 ~~minutes of the meetings, excluding meetings held in executive~~  
 23 ~~session, of the association’s board of directors, conducted over the~~  
 24 ~~previous 12 months, that were approved by the association’s board~~  
 25 ~~of directors.~~

26     ~~(b) (1) Upon written request, the association shall, within 10~~  
 27 ~~days of the mailing or delivery of the request, provide the owner~~  
 28 ~~of a separate interest, or any other recipient authorized by the~~  
 29 ~~owner, with a copy of the requested documents specified in~~  
 30 ~~paragraphs (1) to (10), inclusive, of subdivision (a). Upon receipt~~  
 31 ~~of a written request, the association shall provide, on the form~~  
 32 ~~described in Section 1368.2, a written or electronic estimate of the~~  
 33 ~~fees that will be assessed for providing the requested documents.~~  
 34 ~~The documents required to be made available pursuant to this~~  
 35 ~~section may be maintained in electronic form, and may be posted~~  
 36 ~~on the association’s Internet Web site. Requesting parties shall~~  
 37 ~~have the option of receiving the documents by electronic~~  
 38 ~~transmission if the association maintains the documents in~~  
 39 ~~electronic form. The association may collect a reasonable fee based~~  
 40 ~~upon the association’s actual cost for the procurement, preparation,~~

1 reproduction, and delivery of the documents requested pursuant  
2 to the provisions of this section.

3 (2) No additional fees may be charged by the association for  
4 the electronic delivery of the documents requested.

5 (3) Fees for any documents required by this section shall be  
6 distinguished from other fees, fines, or assessments billed as part  
7 of the transfer or sales transaction. Delivery of the documents  
8 required by this section shall not be withheld for any reason nor  
9 subject to any condition except the payment of the fee allowed  
10 pursuant to paragraph (1).

11 (4) An association may contract with any person or entity to  
12 facilitate compliance with the requirements of this subdivision on  
13 behalf of the association.

14 (5) The association shall also provide a recipient authorized by  
15 the owner of a separate interest with a copy of the completed form  
16 specified in Section 1368.2 at the time the required documents are  
17 delivered.

18 (e) (1) Unless the association notifies the acquiring owner of  
19 a separate interest that the association acknowledges a transfer of  
20 title, the acquiring owner shall provide written notice of the  
21 acquiring owner's mailing address to the association's board  
22 secretary, agent, manager, or designated representative within 30  
23 days of receiving title.

24 (2) This subdivision shall not apply to an owner, subdivider, or  
25 agent subject to the requirements of Section 11018.6 of the  
26 Business and Professions Code.

27 (d) (1) Except as provided in paragraph (2), neither an  
28 association nor a community service organization or similar entity  
29 may impose or collect any assessment, penalty, or fee in connection  
30 with a transfer of title or any other interest except for the following:

31 (A) An amount not to exceed the association's actual costs to  
32 change its records.

33 (B) An amount authorized by subdivision (b).

34 (2) The prohibition in paragraph (1) does not apply to a  
35 community service organization or similar entity, or to a nonprofit  
36 entity that provides services to a common interest development  
37 under a declaration of trust, that is described in subparagraph (A)  
38 or (B):

39 (A) The community service organization or similar entity  
40 satisfies both of the following requirements:

- 1 ~~(i) The community service organization or similar entity was~~  
2 ~~established prior to February 20, 2003.~~
- 3 ~~(ii) The community service organization or similar entity exists~~  
4 ~~and operates, in whole or in part, to fund or perform environmental~~  
5 ~~mitigation or to restore or maintain wetlands or native habitat, as~~  
6 ~~required by the state or local government as an express written~~  
7 ~~condition of development.~~
- 8 ~~(B) The community service organization or similar entity, or a~~  
9 ~~nonprofit entity that provides services to a common interest~~  
10 ~~development under a declaration of trust, satisfies all of the~~  
11 ~~following requirements:~~
- 12 ~~(i) The organization or entity is not an organization or entity~~  
13 ~~described in subparagraph (A).~~
- 14 ~~(ii) The organization or entity was established and received a~~  
15 ~~transfer fee prior to January 1, 2004.~~
- 16 ~~(iii) On and after January 1, 2006, the organization or entity~~  
17 ~~offers a purchaser the following payment options for the fee or~~  
18 ~~charge it collects at time of transfer:~~
- 19 ~~(I) Paying the fee or charge at the time of transfer.~~
- 20 ~~(II) Paying the fee or charge pursuant to an installment payment~~  
21 ~~plan for a period of not less than seven years. If the purchaser~~  
22 ~~elects to pay the fee or charge in installment payments, the~~  
23 ~~organization or entity may also collect additional amounts that do~~  
24 ~~not exceed the actual costs for billing and financing on the amount~~  
25 ~~owed. If the purchaser sells the separate interest before the end of~~  
26 ~~the installment payment plan period, he or she shall pay the~~  
27 ~~remaining balance prior to transfer.~~
- 28 ~~(3) For the purposes of this subdivision, a “community service~~  
29 ~~organization or similar entity” means a nonprofit entity, other than~~  
30 ~~an association, that is organized to provide services to residents~~  
31 ~~of the common interest development or to the public in addition~~  
32 ~~to the residents, to the extent community common areas or facilities~~  
33 ~~are available to the public. A “community service organization or~~  
34 ~~similar entity” does not include an entity that has been organized~~  
35 ~~solely to raise moneys and contribute to other nonprofit~~  
36 ~~organizations that are qualified as tax exempt under Section~~  
37 ~~501(c)(3) of the Internal Revenue Code and that provide housing~~  
38 ~~or housing assistance.~~
- 39 ~~(e) Any person or entity who willfully violates this section is~~  
40 ~~liable to the purchaser of a separate interest that is subject to this~~

1 section for actual damages occasioned thereby and, in addition,  
2 shall pay a civil penalty in an amount not to exceed five hundred  
3 dollars (\$500). In an action to enforce this liability, the prevailing  
4 party shall be awarded reasonable attorneys' fees.

5 (f) Nothing in this section affects the validity of title to real  
6 property transferred in violation of this section.

7 (g) In addition to the requirements of this section, an owner  
8 transferring title to a separate interest shall comply with applicable  
9 requirements of Sections 1133 and 1134.

10 (h) For the purposes of this section, a person who acts as a  
11 community association manager is an agent, as defined in Section  
12 2297, of the association.

13 ~~SEC. 2.~~

14 *SECTION 1.* Section 2924.1 is added to the Civil Code, to read:

15 2924.1. (a) Notwithstanding any other law, ~~a~~ *the transfer,*  
16 *following the sale,* of property in a common interest development,  
17 as defined by Section 1351, executed under the power of sale  
18 contained in any deed of trust or mortgage, shall ~~meet all of the~~  
19 ~~following requirements:~~ *be recorded within 30 days after the date*  
20 *of sale in the office of the county recorder where the property or*  
21 *a portion of the property is located.*

22 (1) ~~The sale shall take place in the county where the property~~  
23 ~~or a portion of the property is located.~~

24 (2) ~~The sale shall be made to the highest bidder at an auction~~  
25 ~~to be held Monday through Friday, between the hours of 9 a.m.~~  
26 ~~and 5 p.m.~~

27 (3) ~~The sale shall be recorded within 30 days after the date of~~  
28 ~~sale in the office of the county recorder where the property or a~~  
29 ~~portion of the property is located.~~

30 (b) (1) ~~If the sale is not recorded pursuant to paragraph (3) of~~  
31 ~~subdivision (a), the purchaser shall be liable for the amount of all~~  
32 ~~liens recorded pursuant to Section 1367 or 1367.1 on the foreclosed~~  
33 ~~property.~~

34 (2) ~~This subdivision shall only apply if the purchaser is also the~~  
35 ~~person or entity that exercised the power of sale on the property.~~

36 (e)

37 (b) Any failure to comply with the provisions of this section  
38 shall not affect the validity of a sale in favor of a bona fide  
39 purchaser.

40 *SEC. 2. Section 2924b of the Civil Code is amended to read:*

1 2924b. (a) Any person desiring a copy of any notice of default  
 2 and of any notice of sale under any deed of trust or mortgage with  
 3 power of sale upon real property or an estate for years therein, as  
 4 to which deed of trust or mortgage the power of sale cannot be  
 5 exercised until these notices are given for the time and in the  
 6 manner provided in Section 2924 may, at any time subsequent to  
 7 recordation of the deed of trust or mortgage and prior to recordation  
 8 of notice of default thereunder, cause to be filed for record in the  
 9 office of the recorder of any county in which any part or parcel of  
 10 the real property is situated, a duly acknowledged request for a  
 11 copy of the notice of default and of sale. This request shall be  
 12 signed and acknowledged by the person making the request,  
 13 specifying the name and address of the person to whom the notice  
 14 is to be mailed, shall identify the deed of trust or mortgage by  
 15 stating the names of the parties thereto, the date of recordation  
 16 thereof, and the book and page where the deed of trust or mortgage  
 17 is recorded or the recorder’s number, and shall be in substantially  
 18 the following form:

19  
 20 “In accordance with Section 2924b, Civil Code, request is hereby  
 21 made that a copy of any notice of default and a copy of any notice of sale  
 22 under the deed of trust (or mortgage) recorded \_\_\_\_\_, \_\_\_\_\_, in Book  
 23 \_\_\_\_\_ page \_\_\_\_\_ records of \_\_\_\_\_ County, (or filed for record with  
 24 recorder’s serial number \_\_\_\_\_, \_\_\_\_\_ County) California, executed  
 25 by \_\_\_\_\_ as trustor (or mortgagor) in which \_\_\_\_\_ is named as  
 26 beneficiary (or mortgagee) and \_\_\_\_\_ as trustee be mailed to  
 27 \_\_\_\_\_ at \_\_\_\_\_.  
 28 Name Address  
 29 NOTICE: A copy of any notice of default and of any notice of sale will be  
 30 sent only to the address contained in this recorded request. If your address  
 31 changes, a new request must be recorded.  
 32 Signature \_\_\_\_\_”

33  
 34 Upon the filing for record of the request, the recorder shall index  
 35 in the general index of grantors the names of the trustors (or  
 36 mortgagor) recited therein and the names of persons requesting  
 37 copies.

38 (b) The mortgagee, trustee, or other person authorized to record  
 39 the notice of default or the notice of sale shall do each of the  
 40 following:

1 (1) Within 10 business days following recordation of the notice  
2 of default, deposit or cause to be deposited in the United States  
3 mail an envelope, sent by registered or certified mail with postage  
4 prepaid, containing a copy of the notice with the recording date  
5 shown thereon, addressed to each person whose name and address  
6 are set forth in a duly recorded request therefor, directed to the  
7 address designated in the request and to each trustor or mortgagor  
8 at his or her last known address if different than the address  
9 specified in the deed of trust or mortgage with power of sale.

10 (2) At least 20 days before the date of sale, deposit or cause to  
11 be deposited in the United States mail an envelope, sent by  
12 registered or certified mail with postage prepaid, containing a copy  
13 of the notice of the time and place of sale, addressed to each person  
14 whose name and address are set forth in a duly recorded request  
15 therefor, directed to the address designated in the request and to  
16 each trustor or mortgagor at his or her last known address if  
17 different than the address specified in the deed of trust or mortgage  
18 with power of sale.

19 (3) As used in paragraphs (1) and (2), the “last known address”  
20 of each trustor or mortgagor means the last business or residence  
21 physical address actually known by the mortgagee, beneficiary,  
22 trustee, or other person authorized to record the notice of default.  
23 For the purposes of this subdivision, an address is “actually known”  
24 if it is contained in the original deed of trust or mortgage, or in  
25 any subsequent written notification of a change of physical address  
26 from the trustor or mortgagor pursuant to the deed of trust or  
27 mortgage. For the purposes of this subdivision, “physical address”  
28 does not include an e-mail or any form of electronic address for a  
29 trustor or mortgagor. The beneficiary shall inform the trustee of  
30 the trustor’s last address actually known by the beneficiary.  
31 However, the trustee shall incur no liability for failing to send any  
32 notice to the last address unless the trustee has actual knowledge  
33 of it.

34 (4) A “person authorized to record the notice of default or the  
35 notice of sale” shall include an agent for the mortgagee or  
36 beneficiary, an agent of the named trustee, any person designated  
37 in an executed substitution of trustee, or an agent of that substituted  
38 trustee.

39 (c) The mortgagee, trustee, or other person authorized to record  
40 the notice of default or the notice of sale shall do the following:

1 (1) Within one month following recordation of the notice of  
2 default, deposit or cause to be deposited in the United States mail  
3 an envelope, sent by registered or certified mail with postage  
4 prepaid, containing a copy of the notice with the recording date  
5 shown thereon, addressed to each person set forth in paragraph  
6 (2), provided that the estate or interest of any person entitled to  
7 receive notice under this subdivision is acquired by an instrument  
8 sufficient to impart constructive notice of the estate or interest in  
9 the land or portion thereof that is subject to the deed of trust or  
10 mortgage being foreclosed, and provided the instrument is recorded  
11 in the office of the county recorder so as to impart that constructive  
12 notice prior to the recording date of the notice of default and  
13 provided the instrument as so recorded sets forth a mailing address  
14 that the county recorder shall use, as instructed within the  
15 instrument, for the return of the instrument after recording, and  
16 which address shall be the address used for the purposes of mailing  
17 notices herein.

18 (2) The persons to whom notice shall be mailed under this  
19 subdivision are:

20 (A) The successor in interest, as of the recording date of the  
21 notice of default, of the estate or interest or any portion thereof of  
22 the trustor or mortgagor of the deed of trust or mortgage being  
23 foreclosed.

24 (B) The beneficiary or mortgagee of any deed of trust or  
25 mortgage recorded subsequent to the deed of trust or mortgage  
26 being foreclosed, or recorded prior to or concurrently with the  
27 deed of trust or mortgage being foreclosed but subject to a recorded  
28 agreement or a recorded statement of subordination to the deed of  
29 trust or mortgage being foreclosed.

30 (C) The assignee of any interest of the beneficiary or mortgagee  
31 described in subparagraph (B), as of the recording date of the notice  
32 of default.

33 (D) The vendee of any contract of sale, or the lessee of any  
34 lease, of the estate or interest being foreclosed that is recorded  
35 subsequent to the deed of trust or mortgage being foreclosed, or  
36 recorded prior to or concurrently with the deed of trust or mortgage  
37 being foreclosed but subject to a recorded agreement or statement  
38 of subordination to the deed of trust or mortgage being foreclosed.

1 (E) The successor in interest to the vendee or lessee described  
2 in subparagraph (D), as of the recording date of the notice of  
3 default.

4 (F) The office of the Controller, Sacramento, California, where,  
5 as of the recording date of the notice of default, a “Notice of Lien  
6 for Postponed Property Taxes” has been recorded against the real  
7 property to which the notice of default applies.

8 (3) At least 20 days before the date of sale, deposit or cause to  
9 be deposited in the United States mail an envelope, sent by  
10 registered or certified mail with postage prepaid, containing a copy  
11 of the notice of the time and place of sale addressed to each person  
12 to whom a copy of the notice of default is to be mailed as provided  
13 in paragraphs (1) and (2), and addressed to the office of any state  
14 taxing agency, Sacramento, California, that has recorded,  
15 subsequent to the deed of trust or mortgage being foreclosed, a  
16 notice of tax lien prior to the recording date of the notice of default  
17 against the real property to which the notice of default applies.

18 (4) Provide a copy of the notice of sale to the Internal Revenue  
19 Service, in accordance with Section 7425 of the Internal Revenue  
20 Code and any applicable federal regulation, if a “Notice of Federal  
21 Tax Lien under Internal Revenue Laws” has been recorded,  
22 subsequent to the deed of trust or mortgage being foreclosed,  
23 against the real property to which the notice of sale applies. The  
24 failure to provide the Internal Revenue Service with a copy of the  
25 notice of sale pursuant to this paragraph shall be sufficient cause  
26 to rescind the trustee’s sale and invalidate the trustee’s deed, at  
27 the option of either the successful bidder at the trustee’s sale or  
28 the trustee, and in either case with the consent of the beneficiary.  
29 Any option to rescind the trustee’s sale pursuant to this paragraph  
30 shall be exercised prior to any transfer of the property by the  
31 successful bidder to a bona fide purchaser for value. A rescision of  
32 the trustee’s sale pursuant to this paragraph may be recorded in a  
33 notice of rescision pursuant to Section 1058.5.

34 (5) The mailing of notices in the manner set forth in paragraph  
35 (1) shall not impose upon any licensed attorney, agent, or employee  
36 of any person entitled to receive notices as herein set forth any  
37 duty to communicate the notice to the entitled person from the fact  
38 that the mailing address used by the county recorder is the address  
39 of the attorney, agent, or employee.

1 (d) Any deed of trust or mortgage with power of sale hereafter  
2 executed upon real property or an estate for years therein may  
3 contain a request that a copy of any notice of default and a copy  
4 of any notice of sale thereunder shall be mailed to any person or  
5 party thereto at the address of the person given therein, and a copy  
6 of any notice of default and of any notice of sale shall be mailed  
7 to each of these at the same time and in the same manner required  
8 as though a separate request therefor had been filed by each of  
9 these persons as herein authorized. If any deed of trust or mortgage  
10 with power of sale executed after September 19, 1939, except a  
11 deed of trust or mortgage of any of the classes excepted from the  
12 provisions of Section 2924, does not contain a mailing address of  
13 the trustor or mortgagor therein named, and if no request for special  
14 notice by the trustor or mortgagor in substantially the form set  
15 forth in this section has subsequently been recorded, a copy of the  
16 notice of default shall be published once a week for at least four  
17 weeks in a newspaper of general circulation in the county in which  
18 the property is situated, the publication to commence within 10  
19 business days after the filing of the notice of default. In lieu of  
20 publication, a copy of the notice of default may be delivered  
21 personally to the trustor or mortgagor within the 10 business days  
22 or at any time before publication is completed, or by posting the  
23 notice of default in a conspicuous place on the property and mailing  
24 the notice to the last known address of the trustor or mortgagor.

25 (e) Any person required to mail a copy of a notice of default or  
26 notice of sale to each trustor or mortgagor pursuant to subdivision  
27 (b) or (c) by registered or certified mail shall simultaneously cause  
28 to be deposited in the United States mail, with postage prepaid and  
29 mailed by first-class mail, an envelope containing an additional  
30 copy of the required notice addressed to each trustor or mortgagor  
31 at the same address to which the notice is sent by registered or  
32 certified mail pursuant to subdivision (b) or (c). The person shall  
33 execute and retain an affidavit identifying the notice mailed,  
34 showing the name and residence or business address of that person,  
35 that he or she is over the age of 18 years, the date of deposit in the  
36 mail, the name and address of the trustor or mortgagor to whom  
37 sent, and that the envelope was sealed and deposited in the mail  
38 with postage fully prepaid. In the absence of fraud, the affidavit  
39 required by this subdivision shall establish a conclusive  
40 presumption of mailing.

1 (f) (1) Notwithstanding subdivision (a), with respect to separate  
2 interests governed by an association, as defined in subdivision (a)  
3 of Section 1351, the association may cause to be filed in the office  
4 of the recorder in the county in which the separate interests are  
5 situated a request that a mortgagee, trustee, or other person  
6 authorized to record a notice of default regarding any of those  
7 separate interests mail to the association a copy of any trustee's  
8 deed upon sale concerning a separate interest. The request shall  
9 include a legal description or the assessor's parcel number of all  
10 the separate interests. A request recorded pursuant to this  
11 subdivision shall include the name and address of the association  
12 and a statement that it is a homeowners' association. Subsequent  
13 requests of an association shall supersede prior requests. A request  
14 pursuant to this subdivision shall be recorded before the filing of  
15 a notice of default. The mortgagee, trustee, or other authorized  
16 person shall mail the requested information to the association  
17 within 15 business days following the date *of the trustee's deed is*  
18 ~~recorded~~ *sale*. Failure to mail the request, pursuant to this  
19 subdivision, shall not affect the title to real property.

20 (2) A request filed pursuant to paragraph (1) does not, for  
21 purposes of Section 27288.1 of the Government Code, constitute  
22 a document that either effects or evidences a transfer or  
23 encumbrance of an interest in real property or that releases or  
24 terminates any interest, right, or encumbrance of an interest in real  
25 property.

26 (g) No request for a copy of any notice filed for record pursuant  
27 to this section, no statement or allegation in the request, and no  
28 record thereof shall affect the title to real property or be deemed  
29 notice to any person that any person requesting copies of notice  
30 has or claims any right, title, or interest in, or lien or charge upon  
31 the property described in the deed of trust or mortgage referred to  
32 therein.

33 (h) "Business day," as used in this section, has the meaning  
34 specified in Section 9.