

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1091

Introduced by Assembly Member Skinner

February 22, 2013

~~An act to amend Sections 2923.3 and 2924 of the Civil Code, relating to mortgages.~~ *An act to amend Section 22050 of, and to add Sections 22173, 22707.5, 22709.5, and 50501.5 to, the Financial Code, relating to lending.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1091, as amended, Skinner. ~~Mortgages: notice of default.~~ *Finance and mortgage lenders.*

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers. Existing law, the California Residential Mortgage Lending Act, provides for the regulation and licensure of residential mortgage lenders, servicers, and originators. Existing law makes the Commissioner of Corporations responsible for administering the law and act until July 1, 2013, and thereafter the Deputy Commissioner of Business Oversight for the Division of Corporations will be responsible, pursuant to the Governor's Reorganization Plan No. 2 of 2012. A willful violation of the law or act is a crime.

Existing law exempts, among others, California business and industrial development corporations, licensed pawnbrokers, and persons making no more than one commercial loan in a 12-month period from the California Finance Lenders Law.

This bill would exempt from the California Finance Lenders Law California business and industrial development corporations when

acting under federal law or other state authority, licensed pawnbrokers when acting under the authority of that license, and persons making no more than 5 commercial loans in a 12-month period as long as the loans are incidental to the business of the person relying on the exemption. The bill would, among other things, prohibit a finance lender or broker from knowingly misrepresenting any material information regarding a transaction and committing any act that constitutes fraud or dishonest dealings. By expanding the definition of a crime, the bill would impose a state-mandated local program.

Upon inspection, examination, or investigation, if the commissioner has cause to believe that a licensee under the California Finance Lenders Law or the California Residential Mortgage Lending Act is violating the respective law applicable to the licensee, or that any other person is violating those laws, the bill would authorize the commissioner to issue a citation to the licensee or person that may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed \$2,500 per violation. The bill would require the commissioner, if the commissioner after investigation has reasonable grounds to believe that a finance lender or broker is conducting business in an unsafe or injurious manner, to issue a written order directing the discontinuance of the unsafe or injurious practice.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires that, upon a breach of the obligation of a mortgage or transfer of an interest in property, the mortgagee, trustee, 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. Existing law specifies other requirements and procedures for completion of a foreclosure sale, including recording a notice of sale prior to exercising a power of sale. Existing law requires, under a notice of default, that a summary of mortgage terms be provided to the mortgagor or trustor, as specified.~~

~~This bill would require a notice of default and the summary of mortgage terms provided to a mortgagor or trustor to include a statement that includes the telephone number of the Homeowners Home Ownership and Opportunity for People Everywhere (HOPE) program~~

or a similar mortgage payment assistance program of the United States Department of Treasury or Housing and Urban Development.

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

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

1 SECTION 1. Section 22050 of the Financial Code is amended
2 to read:

3 22050. (a) This division does not apply to any person doing
4 business under any law of any state or of the United States relating
5 to banks, trust companies, savings and loan associations, insurance
6 premium finance agencies, credit unions, small business investment
7 companies, community advantage lenders, California business and
8 industrial development ~~corporations~~, *corporations when acting*
9 *under federal law or other state authority, or licensed ~~pawnbrokers~~*.
10 *pawnbrokers when acting under the authority of that license.*

11 “Community advantage lender” means an entity authorized by
12 the United States Small Business Administration to deliver
13 community advantage loans.

14 (b) This division does not apply to a check casher who holds a
15 valid permit issued pursuant to Section 1789.37 of the Civil Code
16 when acting under the authority of that permit, and shall not apply
17 to a person holding a valid license issued pursuant to Section 23005
18 of the Financial Code when acting under the authority of that
19 license.

20 (c) This division does not apply to a college or university making
21 a loan for the purpose of permitting a person to pursue a program
22 or course of study leading to a degree or certificate.

23 (d) This division does not apply to a broker-dealer acting
24 pursuant to a certificate then in effect and issued pursuant to
25 Section 25211 of the Corporations Code.

26 (e) This division does not apply to any person who makes no
27 more than ~~one loan~~ *five loans* in a 12-month period ~~as long as that~~
28 ~~loan is a~~, *these loans are commercial ~~loan~~ loans* as defined in
29 ~~Section 22502~~. *22502, and the loans are incidental to the business*
30 *of the person relying upon the exemption.*

31 (f) This division does not apply to any public corporation as
32 defined in Section 67510 of the Government Code, any public
33 entity other than the state as defined in Section 811.2 of the

1 Government Code, or any agency of any one or more of the
 2 foregoing, when making any loan so long as the public corporation,
 3 public entity, or agency of any one or more of the foregoing
 4 complies with all applicable federal and state laws and regulations.
 5 *SEC. 2. Section 22173 is added to the Financial Code, to read:*
 6 *22173. A licensee shall not do any of the following:*
 7 *(a) Commit an act in violation of Section 1695.13 of the Civil*
 8 *Code.*
 9 *(b) Engage in any acts in violation of Section 17200 or 17500*
 10 *of the Business and Professions Code.*
 11 *(c) Knowingly misrepresent, circumvent, or conceal, through*
 12 *subterfuge or device, any material aspect or information regarding*
 13 *a transaction to which the licensee is a party.*
 14 *(d) Commit an act that constitutes fraud or dishonest dealings.*
 15 *SEC. 3. Section 22707.5 is added to the Financial Code, to*
 16 *read:*
 17 *22707.5. (a) If, upon inspection, examination, or investigation,*
 18 *the commissioner has cause to believe that a licensee or person*
 19 *is violating any provision of this division or any rule or order*
 20 *thereunder, the commissioner may issue a citation to the licensee*
 21 *or person in writing, describing with particularity the basis of the*
 22 *citation. Each citation may contain an order to desist and refrain*
 23 *and an assessment of an administrative penalty not to exceed two*
 24 *thousand five hundred dollars (\$2,500) per violation. All penalties*
 25 *collected under this section shall be deposited in the State*
 26 *Corporations Fund.*
 27 *(b) The sanctions authorized under this section shall be separate*
 28 *from, and in addition to, all other administrative, civil, or criminal*
 29 *remedies.*
 30 *(c) If, within 30 days from the receipt of the citation, the licensee*
 31 *or person cited fails to notify the department that he or she intends*
 32 *to request a hearing as described in subdivision (d), the citation*
 33 *shall be deemed final.*
 34 *(d) Any hearing under this section shall be conducted in*
 35 *accordance with Chapter 5 (commencing with Section 11500) of*
 36 *Part 1 of Division 3 of Title 2 of the Government Code.*
 37 *(e) After the exhaustion of the review procedures provided for*
 38 *in this section, the commissioner may apply to the appropriate*
 39 *superior court for a judgment in the amount of the administrative*
 40 *penalty and an order compelling the cited licensee or person to*

1 *comply with the order of the commissioner. The application, which*
2 *shall include a certified copy of the final order of the commissioner,*
3 *shall constitute a sufficient showing to warrant the issuance of the*
4 *judgment and order.*

5 *SEC. 4. Section 22709.5 is added to the Financial Code, to*
6 *read:*

7 *22709.5. If, after investigation, the commissioner has*
8 *reasonable grounds to believe that any licensee is conducting*
9 *business in an unsafe or injurious manner, the commissioner shall,*
10 *by written order addressed to the licensee, direct the*
11 *discontinuance of the unsafe or injurious practices. The order*
12 *shall be effective immediately, but shall not become final except*
13 *in accordance with the provisions of Section 22717.*

14 *SEC. 5. Section 50501.5 is added to the Financial Code, to*
15 *read:*

16 *50501.5. (a) If, upon inspection, examination, or investigation,*
17 *the department has cause to believe that a licensee or person is*
18 *violating any provision of this division or any rule or order*
19 *thereunder, the commissioner may issue a citation to that person*
20 *in writing, describing with particularity the basis of the citation.*
21 *Each citation may contain an order to desist and refrain and an*
22 *assessment of an administrative penalty not to exceed two thousand*
23 *five hundred dollars (\$2,500) per violation. All penalties collected*
24 *under this section shall be deposited in the State Corporations*
25 *Fund.*

26 *(b) The sanctions authorized under this section shall be separate*
27 *from, and in addition to, all other administrative, civil, or criminal*
28 *remedies.*

29 *(c) If, within 30 days from the receipt of the citation, the person*
30 *cited fails to notify the department that the person intends to*
31 *request a hearing as described in subdivision (d), the citation shall*
32 *be deemed final.*

33 *(d) Any hearing under this section shall be conducted in*
34 *accordance with Chapter 5 (commencing with Section 11500) of*
35 *Part 1 of Division 3 of Title 2 of the Government Code.*

36 *(e) After the exhaustion of the review procedures provided for*
37 *in this section, the commissioner may apply to the appropriate*
38 *superior court for a judgment in the amount of the administrative*
39 *penalty and an order compelling the cited person to comply with*
40 *the order of the commissioner. The application, which shall include*

1 a certified copy of the final order of the commissioner, shall
 2 constitute a sufficient showing to warrant the issuance of the
 3 judgment and order.

4 SEC. 6. No reimbursement is required by this act pursuant to
 5 Section 6 of Article XIII B of the California Constitution because
 6 the only costs that may be incurred by a local agency or school
 7 district will be incurred because this act creates a new crime or
 8 infraction, eliminates a crime or infraction, or changes the penalty
 9 for a crime or infraction, within the meaning of Section 17556 of
 10 the Government Code, or changes the definition of a crime within
 11 the meaning of Section 6 of Article XIII B of the California
 12 Constitution.

13 SECTION 1. ~~Section 2923.3 of the Civil Code is amended to~~
 14 ~~read:~~

15 ~~2923.3. (a) With respect to residential real property containing~~
 16 ~~no more than four dwelling units, a mortgagee, trustee, beneficiary,~~
 17 ~~or authorized agent shall provide to the mortgagor or trustor a copy~~
 18 ~~of the recorded notice of default with an attached separate summary~~
 19 ~~document of the notice of default in English and the languages~~
 20 ~~described in Section 1632, as set forth in subdivision (c), and a~~
 21 ~~copy of the recorded notice of sale with an attached separate~~
 22 ~~summary document of the information required to be contained~~
 23 ~~in the notice of sale in English and the languages described in~~
 24 ~~Section 1632, as set forth in subdivision (d). These summaries are~~
 25 ~~not required to be recorded or published. This subdivision shall~~
 26 ~~become operative on April 1, 2013, or 90 days following the~~
 27 ~~issuance of the translations by the Department of Corporations,~~
 28 ~~pursuant to subdivision (b), whichever is later.~~

29 ~~(b) (1) The Department of Corporations shall provide a standard~~
 30 ~~translation of the statement in paragraph (1) of subdivision (c),~~
 31 ~~and of the summary of the notice of default, as set forth in~~
 32 ~~paragraph (2) of subdivision (c) in the languages described in~~
 33 ~~Section 1632.~~

34 ~~(2) The Department of Corporations shall provide a standard~~
 35 ~~translation of the statement in paragraph (1) of subdivision (d),~~
 36 ~~and of the summary of the notice of sale, as set forth in paragraph~~
 37 ~~(2) of subdivision (d).~~

38 ~~(3) The department shall make the translations described in~~
 39 ~~paragraphs (1) and (2) available without charge on its Internet Web~~
 40 ~~site. Any mortgagee, trustee, beneficiary, or authorized agent who~~

1 provides the department's translations in the manner prescribed
2 by this section shall be in compliance with this section.

3 (e) (1) The following statement shall appear in the languages
4 described in Section 1632 at the beginning of the notice of default:

5
6 ~~NOTE: THERE IS A SUMMARY OF THE INFORMATION~~
7 ~~IN THIS DOCUMENT ATTACHED.~~

8
9 (2) The following summary of key information shall be attached
10 to the copy of the notice of default provided to the mortgagor or
11 trustor:

12
13 **SUMMARY OF KEY INFORMATION**

14 The attached notice of default was sent to [name of the trustor],
15 in relation to [description of the property that secures the mortgage
16 or deed of trust in default]. This property may be sold to satisfy
17 your obligation and any other obligation secured by the deed of
18 trust or mortgage that is in default. [Trustor] has, as described in
19 the notice of default, breached the mortgage or deed of trust on
20 the property described above.

21 ~~IMPORTANT NOTICE: IF YOUR PROPERTY IS IN~~
22 ~~FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR~~
23 ~~PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT~~
24 ~~ACTION, and you may have the legal right to bring your account~~
25 ~~in good standing by paying all of your past due payments plus~~
26 ~~permitted costs and expenses within the time permitted by law for~~
27 ~~reinstatement of your account, which is normally five business~~
28 ~~days prior to the date set for the sale of your property. No sale date~~
29 ~~may be set until approximately 90 days from the date the attached~~
30 ~~notice of default may be recorded (which date of recordation~~
31 ~~appears on the notice).~~

32 This amount is _____ as of ____ (date) _____ and
33 will increase until your account becomes current.

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

1 addition, the beneficiary or mortgagee may require as a condition
2 to reinstatement that you provide reliable written evidence that
3 you paid all senior liens, property taxes, and hazard insurance
4 premiums.

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

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

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

26 _____
27 (Name of beneficiary or mortgagee)
28 _____
29 (Mailing address)
30 _____
31 (Telephone)

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.~~

39 If you would like additional copies of this summary, you may
40 obtain them by calling [insert telephone number].

1 ~~(d) (1) The following statement shall appear in the languages~~
2 ~~described in Section 1632 at the beginning of the notice of sale:~~

3
4 ~~NOTE: THERE IS A SUMMARY OF THE INFORMATION~~
5 ~~IN THIS DOCUMENT ATTACHED.~~

6
7 ~~(2) The following summary of key information shall be attached~~
8 ~~to the copy of the notice of sale provided to the mortgagor or~~
9 ~~trustor:~~

10
11 ~~SUMMARY OF KEY INFORMATION~~

12 ~~The attached notice of sale was sent to [trustor], in relation to~~
13 ~~[description of the property that secures the mortgage or deed of~~
14 ~~trust in default].~~

15 ~~YOU ARE IN DEFAULT UNDER A (Deed of trust or~~
16 ~~mortgage) DATED _____. UNLESS YOU TAKE ACTION TO~~
17 ~~PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A~~
18 ~~PUBLIC SALE.~~

19 ~~IF YOU NEED AN EXPLANATION OF THE NATURE OF~~
20 ~~THE PROCEEDING AGAINST YOU, YOU SHOULD~~
21 ~~CONTACT A LAWYER.~~

22 ~~The total amount due in the notice of sale is _____.~~

23 ~~Your property is scheduled to be sold on [insert date and time~~
24 ~~of sale] at [insert location of sale].~~

25 ~~However, the sale date shown on the attached notice of sale may~~
26 ~~be postponed one or more times by the mortgagee, beneficiary,~~
27 ~~trustee, or a court, pursuant to Section 2924g of the California~~
28 ~~Civil Code. The law requires that information about trustee sale~~
29 ~~postponements be made available to you and to the public, as a~~
30 ~~courtesy to those not present at the sale. If you wish to learn~~
31 ~~whether your sale date has been postponed, and, if applicable, the~~
32 ~~rescheduled time and date for the sale of this property, you may~~
33 ~~call [telephone number for information regarding the trustee's sale]~~
34 ~~or visit this Internet Web site [Internet Web site address for~~
35 ~~information regarding the sale of this property], using the file~~
36 ~~number assigned to this case [case file number]. Information about~~
37 ~~postponements that are very short in duration or that occur close~~
38 ~~in time to the scheduled sale may not immediately be reflected in~~
39 ~~the telephone information or on the Internet Web site. The best~~

1 way to verify postponement information is to attend the scheduled
2 sale.

3 If you would like additional copies of this summary, you may
4 obtain them by calling [insert telephone number].

5 (e) Failure to provide these summaries to the mortgagor or
6 trustor shall have the same effect as if the notice of default or notice
7 of sale were incomplete or not provided.

8 (f) This section sets forth a requirement for translation in
9 languages other than English, and a document complying with the
10 provisions of this section may be recorded pursuant to subdivision
11 (b) of Section 27293 of the Government Code. A document that
12 complies with this section shall not be rejected for recordation on
13 the ground that some part of the document is in a language other
14 than English.

15 (g) The statement required pursuant to subdivision (c) shall also
16 include the telephone number of the Homeowners Home
17 Ownership and Opportunity for People Everywhere (HOPE)
18 program or a similar mortgage payment assistance program of the
19 United States Department of Treasury or Housing and Urban
20 Development.

21
22 SEC. 2. Section 2924 of the Civil Code is amended to read:

23 2924. (a) Every transfer of an interest in property, other than
24 in trust, made only as a security for the performance of another
25 act, is to be deemed a mortgage, except when in the case of
26 personal property it is accompanied by actual change of possession,
27 in which case it is to be deemed a pledge. Where, by a mortgage
28 created after July 27, 1917, of any estate in real property, other
29 than an estate at will or for years, less than two, or in any transfer
30 in trust made after July 27, 1917, of a like estate to secure the
31 performance of an obligation, a power of sale is conferred upon
32 the mortgagee, trustee, or any other person, to be exercised after
33 a breach of the obligation for which that mortgage or transfer is a
34 security, the power shall not be exercised except where the
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~~
9 ~~mortgage or deed of trust is recorded or a description of the~~
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~~
15 ~~to be sold the property to satisfy that obligation and any other~~
16 ~~obligation secured by the deed of trust or mortgage that is in~~
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 ~~(E) A statement that includes the telephone number of the~~
22 ~~Homeowners Home Ownership and Opportunity for People~~
23 ~~Everywhere (HOPE) program or a similar mortgage payment~~
24 ~~assistance program of the United States Department of Treasury~~
25 ~~or Housing and Urban Development.~~

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

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

33 ~~(4) Notwithstanding paragraph (3), the mortgagee, trustee, or~~
34 ~~other person authorized to take sale may record a notice of sale~~
35 ~~pursuant to Section 2924f up to five days before the lapse of the~~
36 ~~three-month period described in paragraph (2), provided that the~~
37 ~~date of sale is no earlier than three months and 20 days after the~~
38 ~~recording of the notice of default.~~

39 ~~(5) Until January 1, 2018, whenever a sale is postponed for a~~
40 ~~period of at least 10 business days pursuant to Section 2924g, a~~

1 mortgagee, beneficiary, or authorized agent shall provide written
 2 notice to a borrower regarding the new sale date and time, within
 3 five business days following the postponement. Information
 4 provided pursuant to this paragraph shall not constitute the public
 5 declaration required by subdivision (d) of Section 2924g. Failure
 6 to comply with this paragraph shall not invalidate any sale that
 7 would otherwise be valid under Section 2924f. This paragraph
 8 shall be inoperative on January 1, 2018.

9 (6) No entity shall record or cause a notice of default to be
 10 recorded or otherwise initiate the foreclosure process unless it is
 11 the holder of the beneficial interest under the mortgage or deed of
 12 trust, the original trustee or the substituted trustee under the deed
 13 of trust, or the designated agent of the holder of the beneficial
 14 interest. No agent of the holder of the beneficial interest under the
 15 mortgage or deed of trust, original trustee or substituted trustee
 16 under the deed of trust may record a notice of default or otherwise
 17 commence the foreclosure process except when acting within the
 18 scope of authority designated by the holder of the beneficial
 19 interest.

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

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

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

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

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

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

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

12 ~~(f) With respect to residential real property containing no more~~
13 ~~than four dwelling units, a separate document containing a~~
14 ~~summary of the notice of default information in English and the~~
15 ~~languages described in Section 1632 shall be attached to the notice~~
16 ~~of default provided to the mortgagor or trustor pursuant to Section~~
17 ~~2923.3.~~