

AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 310

Introduced by Senator Calderon

February 15, 2013

~~An act to amend Section 910 of the Civil Code, relating to litigation.~~
An act to add Section 2924.26 to, and to add and repeal Section 2924.25 of, the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 310, as amended, Calderon. ~~Prelitigation procedures: construction claims.~~ *Mortgages: foreclosure notices: title companies.*

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

enjoin a material violation of certain of these provisions if a trustee’s deed of sale has not been recorded.

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

~~Existing law requires a claimant to file a written notice, as specified, with the party alleged to have contributed to a construction defect before initiating litigation against the party for construction defect claims regarding the claimant’s residence.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

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

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

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

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

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

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

13 2924.26. (a) A licensed title company or underwritten title
14 company shall not be liable for a violation of Sections 2923.5 and
15 2924.11 if it records or causes to record a notice of default or
16 notice of sale at the request of a trustee, substitute trustee, or
17 beneficiary, in good faith and in the normal course of its business
18 activities.

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

20 ~~SECTION 1. Section 910 of the Civil Code is amended to read:~~

21 ~~910. Prior to filing an action against any party alleged to have~~
22 ~~contributed to a violation of the standards set forth in Chapter 2~~

1 ~~(commencing with Section 896), the claimant shall initiate the~~
2 ~~following prelitigation procedures:~~

3 ~~(a) The claimant or his or her legal representative shall provide~~
4 ~~written notice via certified mail, overnight mail, or personal~~
5 ~~delivery to the builder, in the manner prescribed in this section, of~~
6 ~~the claimant's claim that the construction of his or her residence~~
7 ~~violates any of the standards set forth in Chapter 2 (commencing~~
8 ~~with Section 896):~~

9 ~~(1) The written notice shall provide the claimant's name,~~
10 ~~address, and preferred method of contact, and shall state that the~~
11 ~~claimant alleges a violation pursuant to this part against the builder,~~
12 ~~and shall describe the claim in reasonable detail sufficient to~~
13 ~~determine the nature and location, to the extent known, of the~~
14 ~~claimed violation:~~

15 ~~(2) In the case of a group of homeowners or an association, the~~
16 ~~notice may identify the claimants solely by address or other~~
17 ~~description sufficient to apprise the builder of the locations of the~~
18 ~~subject residences. That document shall have the same force and~~
19 ~~effect as a notice of commencement of a legal proceeding:~~

20 ~~(b) The notice requirements of this section do not preclude a~~
21 ~~homeowner from seeking redress through any applicable normal~~
22 ~~customer service procedure as set forth in any contractual,~~
23 ~~warranty, or other builder-generated document; and, if a~~
24 ~~homeowner seeks to do so, that request shall not satisfy the notice~~
25 ~~requirements of this section:~~