

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:~~