

AMENDED IN SENATE APRIL 22, 2013  
AMENDED IN SENATE MARCH 21, 2013

**SENATE BILL**

**No. 310**

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**Introduced by Senator Calderon**

February 15, 2013

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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. 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, *except when it is acting as a trustee*, 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.

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-Unless acting in the capacity of a trustee, a~~  
4 licensed title company or underwritten title company shall not be  
5 liable for a violation of ~~Sections~~ *Section 2923.5, 2923.55, 2923.6,*  
6 *2924.11, 2924.18, and or 2924.19* if it records or causes to record  
7 a notice of default or notice of sale at the request of a trustee,  
8 substitute trustee, or beneficiary, in good faith and in the normal  
9 course of its business activities.

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11 and as of that date is repealed, unless a later enacted statute, that  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

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

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

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

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