

Introduced by Senator Huff

February 2, 2015

An act to amend Section 2945 of the Civil Code, relating to mortgage foreclosure consultants.

LEGISLATIVE COUNSEL'S DIGEST

SB 153, as introduced, Huff. Mortgage foreclosure consultants.

Existing law defines mortgage foreclosure consultants and regulates their activities. Existing law states the intent of the Legislature to protect homeowners who are in the process of foreclosure from abuses and fraudulent practices by foreclosure consultants.

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 2945 of the Civil Code is amended to
2 read:
3 2945. (a) The Legislature finds and declares that homeowners
4 whose residences are in foreclosure are subject to fraud, deception,
5 harassment, and unfair dealing by foreclosure consultants from
6 the time a Notice of Default is recorded pursuant to Section 2924
7 until the time surplus funds from any foreclosure sale are
8 distributed to the homeowner or his or her successor. Foreclosure
9 consultants represent that they can assist homeowners who have
10 defaulted on obligations secured by their residences. These
11 foreclosure consultants, however, often charge high fees, the

1 payment of which is often secured by a deed of trust on the
 2 residence to be saved, and perform no service or essentially a
 3 worthless service. Homeowners, relying on the foreclosure
 4 consultants' promises of help, take no other action, are diverted
 5 from lawful businesses which could render beneficial services,
 6 and often lose their homes, sometimes to the foreclosure
 7 consultants who purchase homes at a fraction of their value before
 8 the sale. Vulnerable homeowners are increasingly relying on the
 9 services of foreclosure consultants who advise the homeowner
 10 that the foreclosure consultant can obtain the remaining funds from
 11 the foreclosure sale if the homeowner executes an assignment of
 12 the surplus, a deed, or a power of attorney in favor of the
 13 foreclosure consultant. This results in the homeowner paying an
 14 exorbitant fee for a service when the homeowner could have
 15 obtained the remaining funds from the trustee's sale from the
 16 trustee directly for minimal cost if the homeowner had consulted
 17 legal counsel or had sufficient time to receive notices from the
 18 trustee pursuant to Section 2924j regarding how and where to make
 19 a claim for excess proceeds.

20 (b) The Legislature further finds and declares that foreclosure
 21 consultants have a significant impact on the economy of this state
 22 and on the welfare of its citizens.

23 (c) The intent and purposes of this article are the following:

24 (1) To require that foreclosure consultant service agreements
 25 be expressed in ~~writing~~; *to writing*.

26 (2) *To safeguard the public against deceit and financial hardship;*
 27 ~~to hardship~~.

28 (3) *To permit rescission of foreclosure consultation*~~contracts~~;
 29 ~~to contracts~~.

30 (4) *To prohibit representations that tend to*~~mislead~~*; and to*
 31 *mislead*.

32 (5) *To encourage fair dealing in the rendition of foreclosure*
 33 *services*.

34 (2)

35 (d) The provisions of this article shall be liberally construed to
 36 effectuate this intent and to achieve these purposes.