

AMENDED IN SENATE MAY 2, 2024
AMENDED IN SENATE APRIL 1, 2024

SENATE BILL

No. 1146

Introduced by Senator Wilk

February 14, 2024

An act to amend Sections 2923.7, 2924.15, 2924.18, 2924c, 2924g, 2924h, and 2924m of the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Wilk. Mortgages.

Existing law defines and regulates mortgages, including recording notices of default, applications for loan modification, foreclosure prevention alternatives, and recordation of the trustee's deed upon sale of property under the power of sale contained in a deed of trust or mortgage, also known as a trustee's sale or foreclosure sale.

Existing law requires mortgage servicers to establish a single point of contact when a borrower requests a foreclosure prevention alternative, as specified. Existing law exempts from these provisions certain entities and persons that, during their immediately preceding annual reporting period, as established with their primary regulator, foreclosed on 175 or fewer residential real properties, containing no more than 4 dwelling units, that are located in California.

This bill would also exempt persons or entities that make and service 7 or fewer loans for the purchase of residential real property in a calendar year from those provisions.

Existing law prohibits certain entities and persons that, during their immediately preceding annual reporting period, as established with their primary regulator, foreclosed on 175 or fewer residential real properties, containing no more than 4 dwelling units, that are located

in California from recording a notice of default, notice of sale, or conducting a trustee's sale if the borrower submits a complete application for a first lien loan modification, as specified.

This bill would subject persons or entities that make and service 7 or fewer loans for the purchase of residential real property in a calendar year to those provisions.

Existing law provides that specified law only applies to a first lien mortgage or deed of trust that meets either of 2 conditions: (1) the first lien mortgage or deed of trust is secured by owner-occupied residential real property containing no more than 4 dwelling units, or (2) the first lien mortgage or deed of trust is secured by residential real property that is occupied by a tenant, that contains no more than 4 dwelling units, and that meets certain conditions.

This bill would remove the 2nd condition.

Existing law authorizes a trustor or mortgagor to cure a default in certain circumstances. Existing law requires the beneficiary or mortgagee, after a cure, to reinstate and, within 21 days following the reinstatement, execute and deliver to the trustee a notice, as specified. Existing law requires the trustee to record the notice, as specified.

This bill would provide that a trustee is not required to record that notice if the mortgage or deed of trust is paid in full and a full reconveyance or certificate of discharge is recorded, as specified.

Existing law imposes various requirements on trustee's sales, including the time and location of the sale, postponement of the sale, and how a postponement of the sale must be announced.

This bill would require a sale to be postponed ~~to the next business day~~ *7 calendar days* at the same time and location if an act of force majeure, as defined, prevents access to the sale location for the conduct of the sale.

Existing law provides the trustee with specified rights at a trustee's sale, including the right to require every bidder to show evidence of the bidder's ability to deposit with the trustee the full amount of their final bid, as specified. Existing law authorizes the trustee, in the event the trustee accepts a check or a cash equivalent, to withhold the issuance of the trustee's deed to the successful bidder until funds become available to the payee or endorsee as a matter of right, as specified.

This bill would provide the trustee the right to require any bid that is not cash to be made directly payable to the trustee, if that requirement is set forth by the trustee in the notice of sale. The bill would authorize the trustee to require the successful bidder to replace the check or cash

equivalent with a check or cash equivalent made directly payable to the trustee if necessary for the funds to be made available to the trustee.

Existing law provides a prospective owner-occupant and eligible tenant buyer various rights in connection with a trustee's sale. Existing law provides that certain types of trustee's sales are not deemed final until the earliest of various time periods, including 45 days after the trustee's sale, except that during that 45-day period, an eligible bidder may submit a specified bid to the trustee that meets certain requirements, including that the bid be sent to the trustee by certified mail, overnight delivery, or another method that allows for confirmation of the delivery date, and that the bid be received by trustee by a specified date on time, except that on the last day that bids are eligible to be received by the trustee, the trustee is prohibited from receiving any bid not sent by certified mail or overnight mail.

This bill would recast that provision to prohibit the trustee, on the last day that bids are eligible to be received by the trustee pursuant to the provisions described above, from receiving any bid not sent by certified mail with the United States Postal Service or by another overnight mail courier service with tracking information that confirms the recipient's signature and the date and time of receipt and delivery.

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 2923.7 of the Civil Code is amended to
2 read:
3 2923.7. (a) When a borrower requests a foreclosure prevention
4 alternative, the mortgage servicer shall promptly establish a single
5 point of contact and provide to the borrower one or more direct
6 means of communication with the single point of contact.
7 (b) The single point of contact shall be responsible for doing
8 all of the following:
9 (1) Communicating the process by which a borrower may apply
10 for an available foreclosure prevention alternative and the deadline
11 for any required submissions to be considered for these options.
12 (2) Coordinating receipt of all documents associated with
13 available foreclosure prevention alternatives and notifying the
14 borrower of any missing documents necessary to complete the
15 application.

1 (3) Having access to current information and personnel sufficient
2 to timely, accurately, and adequately inform the borrower of the
3 current status of the foreclosure prevention alternative.

4 (4) Ensuring that a borrower is considered for all foreclosure
5 prevention alternatives offered by, or through, the mortgage
6 servicer, if any.

7 (5) Having access to individuals with the ability and authority
8 to stop foreclosure proceedings when necessary.

9 (c) The single point of contact shall remain assigned to the
10 borrower's account until the mortgage servicer determines that all
11 loss mitigation options offered by, or through, the mortgage
12 servicer have been exhausted or the borrower's account becomes
13 current.

14 (d) The mortgage servicer shall ensure that a single point of
15 contact refers and transfers a borrower to an appropriate supervisor
16 upon request of the borrower, if the single point of contact has a
17 supervisor.

18 (e) For purposes of this section, "single point of contact" means
19 an individual or team of personnel each of whom has the ability
20 and authority to perform the responsibilities described in
21 subdivisions (b) to (d), inclusive. The mortgage servicer shall
22 ensure that each member of the team is knowledgeable about the
23 borrower's situation and current status in the alternatives to
24 foreclosure process.

25 (f) This section shall apply only to mortgages or deeds of trust
26 described in Section 2924.15.

27 (g) (1) This section shall not apply to either of the following:

28 (A) A depository institution chartered under state or federal
29 law, a person licensed pursuant to Division 9 (commencing with
30 Section 22000) or Division 20 (commencing with Section 50000)
31 of the Financial Code, or a person licensed pursuant to Part 1
32 (commencing with Section 10000) of Division 4 of the Business
33 and Professions Code, that, during its immediately preceding
34 annual reporting period, as established with its primary regulator,
35 foreclosed on 175 or fewer residential real properties, containing
36 no more than four dwelling units, that are located in California.

37 (B) A person or entity that makes and services seven or fewer
38 loans for the purchase of residential real property in a calendar
39 year.

(2) Within three months after the close of any calendar year or annual reporting period as established with its primary regulator during which an entity or person described in subparagraph (A) of paragraph (1) exceeds the threshold of 175 specified in subparagraph (A) of paragraph (1), that entity shall notify its primary regulator, in a manner acceptable to its primary regulator, and any mortgagor or trustor who is delinquent on a residential mortgage loan serviced by that entity of the date on which that entity will be subject to this section, which date shall be the first day of the first month that is six months after the close of the calendar year or annual reporting period during which that entity exceeded the threshold.

SEC. 2. Section 2924.15 of the Civil Code is amended to read:

2924.15. (a) Unless otherwise provided, paragraph (5) of subdivision (a) of Section 2924 and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 shall apply only to a first lien mortgage or deed of trust that is secured by owner-occupied residential real property containing no more than four dwelling units.

(b) For purposes of this section, “owner-occupied” means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.

SEC. 3. Section 2924.18 of the Civil Code is amended to read:

2924.18. (a) (1) If a borrower submits a complete application for a first lien loan modification offered by, or through, the borrower’s mortgage servicer at least five business days before a scheduled foreclosure sale, a mortgage servicer, trustee, mortgagee, beneficiary, or authorized agent shall not record a notice of default, notice of sale, or conduct a trustee’s sale while the complete first lien loan modification application is pending, and until the borrower has been provided with a written determination by the mortgage servicer regarding that borrower’s eligibility for the requested loan modification.

(2) If a foreclosure prevention alternative has been approved in writing prior to the recordation of a notice of default, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of default under either of the following circumstances:

1 (A) The borrower is in compliance with the terms of a written
2 trial or permanent loan modification, forbearance, or repayment
3 plan.

4 (B) A foreclosure prevention alternative has been approved in
5 writing by all parties, including, for example, the first lien investor,
6 junior lienholder, and mortgage insurer, as applicable, and proof
7 of funds or financing has been provided to the servicer.

8 (3) If a foreclosure prevention alternative is approved in writing
9 after the recordation of a notice of default, a mortgage servicer,
10 mortgagee, trustee, beneficiary, or authorized agent shall not record
11 a notice of sale or conduct a trustee's sale under either of the
12 following circumstances:

13 (A) The borrower is in compliance with the terms of a written
14 trial or permanent loan modification, forbearance, or repayment
15 plan.

16 (B) A foreclosure prevention alternative has been approved in
17 writing by all parties, including, for example, the first lien investor,
18 junior lienholder, and mortgage insurer, as applicable, and proof
19 of funds or financing has been provided to the servicer.

20 (b) This section shall apply to both of the following:

21 (1) A depository institution chartered under state or federal law,
22 a person licensed pursuant to Division 9 (commencing with Section
23 22000) or Division 20 (commencing with Section 50000) of the
24 Financial Code, or a person licensed pursuant to Part 1
25 (commencing with Section 10000) of Division 4 of the Business
26 and Professions Code, that, during its immediately preceding
27 annual reporting period, as established with its primary regulator,
28 foreclosed on 175 or fewer residential real properties, containing
29 no more than four dwelling units, that are located in California.

30 (2) A person or entity that makes and services seven or fewer
31 loans for the purchase of residential real property in a calendar
32 year.

33 (c) Within three months after the close of any calendar year or
34 annual reporting period as established with its primary regulator
35 during which an entity or person described in paragraph (1) of
36 subdivision (b) exceeds the threshold of 175 specified in paragraph
37 (1) of subdivision (b), that entity shall notify its primary regulator,
38 in a manner acceptable to its primary regulator, and any mortgagor
39 or trustor who is delinquent on a residential mortgage loan serviced
40 by that entity of the date on which that entity will be subject to

1 Sections 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and
2 2924.12, which date shall be the first day of the first month that
3 is six months after the close of the calendar year or annual reporting
4 period during which that entity exceeded the threshold.

5 (d) For purposes of this section, an application shall be deemed
6 “complete” when a borrower has supplied the mortgage servicer
7 with all documents required by the mortgage servicer within the
8 reasonable timeframes specified by the mortgage servicer.

9 (e) If a borrower has been approved in writing for a first lien
10 loan modification or other foreclosure prevention alternative, and
11 the servicing of the borrower’s loan is transferred or sold to another
12 mortgage servicer, the subsequent mortgage servicer shall continue
13 to honor any previously approved first lien loan modification or
14 other foreclosure prevention alternative, in accordance with the
15 provisions of the act that added this section.

16 (f) This section shall apply only to mortgages or deeds of trust
17 described in Section 2924.15.

18 SEC. 4. Section 2924c of the Civil Code is amended to read:

19 2924c. (a) (1) Whenever all or a portion of the principal sum
20 of any obligation secured by deed of trust or mortgage on real
21 property or an estate for years therein hereafter executed has, prior
22 to the maturity date fixed in that obligation, become due or been
23 declared due by reason of default in payment of interest or of any
24 installment of principal, or by reason of failure of trustor or
25 mortgagor to pay, in accordance with the terms of that obligation
26 or of the deed of trust or mortgage, taxes, assessments, premiums
27 for insurance, or advances made by beneficiary or mortgagee in
28 accordance with the terms of that obligation or of the deed of trust
29 or mortgage, the trustor or mortgagor or their successor in interest
30 in the mortgaged or trust property or any part thereof, or any
31 beneficiary under a subordinate deed of trust or any other person
32 having a subordinate lien or encumbrance of record thereon, at
33 any time within the period specified in subdivision (e), if the power
34 of sale therein is to be exercised, or, otherwise at any time prior
35 to entry of the decree of foreclosure, may pay to the beneficiary
36 or the mortgagee or their successors in interest, respectively, the
37 entire amount due, at the time payment is tendered, with respect
38 to (A) all amounts of principal, interest, taxes, assessments,
39 insurance premiums, or advances actually known by the beneficiary
40 to be, and that are, in default and shown in the notice of default,

1 under the terms of the deed of trust or mortgage and the obligation
2 secured thereby, (B) all amounts in default on recurring obligations
3 not shown in the notice of default, and (C) all reasonable costs and
4 expenses, subject to subdivision (c), that are actually incurred in
5 enforcing the terms of the obligation, deed of trust, or mortgage,
6 and trustee's or attorney's fees, subject to subdivision (d), other
7 than the portion of principal as would not then be due had no
8 default occurred, and thereby cure the default theretofore existing,
9 and thereupon, all proceedings theretofore had or instituted shall
10 be dismissed or discontinued and the obligation and deed of trust
11 or mortgage shall be reinstated and shall be and remain in force
12 and effect, the same as if the acceleration had not occurred. This
13 section does not apply to bonds or other evidences of indebtedness
14 authorized or permitted to be issued by the Department of Financial
15 Protection and Innovation or made by a public utility subject to
16 the Public Utilities Code. For the purposes of this subdivision, the
17 term "recurring obligation" means all amounts of principal and
18 interest on the loan, or rents, subject to the deed of trust or
19 mortgage in default due after the notice of default is recorded; all
20 amounts of principal and interest or rents advanced on senior liens
21 or leaseholds that are advanced after the recordation of the notice
22 of default; and payments of taxes, assessments, and hazard
23 insurance advanced after recordation of the notice of default. If
24 the beneficiary or mortgagee has made no advances on defaults
25 that would constitute recurring obligations, the beneficiary or
26 mortgagee may require the trustor or mortgagor to provide reliable
27 written evidence that the amounts have been paid prior to
28 reinstatement.

29 (2) If the trustor, mortgagor, or other person authorized to cure
30 the default pursuant to this subdivision does cure the default, the
31 beneficiary or mortgagee or the agent for the beneficiary or
32 mortgagee shall, within 21 days following the reinstatement,
33 execute and deliver to the trustee a notice of rescission that rescinds
34 the declaration of default and demand for sale and advises the
35 trustee of the date of reinstatement. The trustee shall cause the
36 notice of rescission to be recorded within 30 days of receipt of the
37 notice of rescission and of all allowable fees and costs, unless the
38 mortgage or deed of trust is paid in full and a full reconveyance
39 or certificate of discharge is properly recorded.

1 No charge, except for the recording fee, shall be made against
2 the trustor or mortgagor for the execution and recordation of the
3 notice which rescinds the declaration of default and demand for
4 sale.

5 (b) (1) The notice, of any default described in this section,
6 recorded pursuant to Section 2924, and mailed to any person
7 pursuant to Section 2924b, shall begin with the following
8 statement, printed or typed thereon:
9

10 “IMPORTANT NOTICE [14-point boldface type if printed or
11 in capital letters if typed]
12

13 IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE
14 YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD
15 WITHOUT ANY COURT ACTION, [14-point boldface type if
16 printed or in capital letters if typed] and you may have the legal
17 right to bring your account in good standing by paying all of your
18 past due payments plus permitted costs and expenses within the
19 time permitted by law for reinstatement of your account, which is
20 normally five business days prior to the date set for the sale of
21 your property. No sale date may be set until approximately 90 days
22 from the date this notice of default may be recorded (which date
23 of recordation appears on this notice).
24

25 This amount is _____ as of _____
26 (Date)
27

28 and will increase until your account becomes current.

29 While your property is in foreclosure, you still must pay other
30 obligations (such as insurance and taxes) required by your note
31 and deed of trust or mortgage. If you fail to make future payments
32 on the loan, pay taxes on the property, provide insurance on the
33 property, or pay other obligations as required in the note and deed
34 of trust or mortgage, the beneficiary or mortgagee may insist that
35 you do so in order to reinstate your account in good standing. In
36 addition, the beneficiary or mortgagee may require as a condition
37 to reinstatement that you provide reliable written evidence that
38 you paid all senior liens, property taxes, and hazard insurance
39 premiums.

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

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

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

22
23 _____
24 (Name of beneficiary or mortgagee)

25 _____
26 (Mailing address)

27 _____
28 (Telephone)
29

30 If you have any questions, you should contact a lawyer or the
31 governmental agency that may have insured your loan.

32 Notwithstanding the fact that your property is in foreclosure,
33 you may offer your property for sale, provided the sale is concluded
34 prior to the conclusion of the foreclosure.

35 Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO**
36 **NOT TAKE PROMPT ACTION.** [14-point boldface type if printed
37 or in capital letters if typed]”
38

39 Unless otherwise specified, the notice, if printed, shall appear
40 in at least 12-point boldface type.

1 If the obligation secured by the deed of trust or mortgage is a
2 contract or agreement described in paragraph (1) or (4) of
3 subdivision (a) of Section 1632, the notice required herein shall
4 be in Spanish if the trustor requested a Spanish language translation
5 of the contract or agreement pursuant to Section 1632. If the
6 obligation secured by the deed of trust or mortgage is contained
7 in a home improvement contract, as defined in Sections 7151.2
8 and 7159 of the Business and Professions Code, which is subject
9 to Title 2 (commencing with Section 1801), the seller shall specify
10 on the contract whether or not the contract was principally
11 negotiated in Spanish and if the contract was principally negotiated
12 in Spanish, the notice required herein shall be in Spanish. No
13 assignee of the contract or person authorized to record the notice
14 of default shall incur any obligation or liability for failing to mail
15 a notice in Spanish unless Spanish is specified in the contract or
16 the assignee or person has actual knowledge that the secured
17 obligation was principally negotiated in Spanish. Unless specified
18 in writing to the contrary, a copy of the notice required by
19 subdivision (c) of Section 2924b shall be in English.

20 (2) Any failure to comply with the provisions of this subdivision
21 shall not affect the validity of a sale in favor of a bona fide
22 purchaser or the rights of an encumbrancer for value and without
23 notice.

24 (c) Costs and expenses that may be charged pursuant to Sections
25 2924 to 2924i, inclusive, shall be limited to the costs incurred for
26 recording, mailing, including certified and express mail charges,
27 publishing, and posting notices required by Sections 2924 to 2924i,
28 inclusive, postponement pursuant to Section 2924g not to exceed
29 fifty dollars (\$50) per postponement and a fee for a trustee's sale
30 guarantee or, in the event of judicial foreclosure, a litigation
31 guarantee. For purposes of this subdivision, a trustee or beneficiary
32 may purchase a trustee's sale guarantee at a rate meeting the
33 standards contained in Sections 12401.1 and 12401.3 of the
34 Insurance Code.

35 (d) (1) Trustee's or attorney's fees that may be charged pursuant
36 to subdivision (a), or until the notice of sale is deposited in the
37 mail to the trustor as provided in Section 2924b, if the sale is by
38 power of sale contained in the deed of trust or mortgage, or,
39 otherwise at any time prior to the decree of foreclosure, are hereby
40 authorized to be in an amount as follows:

1 (A) If the unpaid principal sum secured is fifty thousand dollars
2 (\$50,000) or less, then in a base amount that does not exceed three
3 hundred fifty dollars (\$350).

4 (B) If the unpaid principal sum secured is greater than fifty
5 thousand dollars (\$50,000) but does not exceed one hundred fifty
6 thousand dollars (\$150,000), then in a base amount that does not
7 exceed three hundred fifty dollars (\$350) plus one-half of 1 percent
8 of the unpaid principal sum secured exceeding fifty thousand
9 dollars (\$50,000).

10 (C) If the unpaid principal sum secured is greater than one
11 hundred fifty thousand dollars (\$150,000) but does not exceed five
12 hundred thousand dollars (\$500,000), then in a base amount that
13 does not exceed three hundred dollars (\$300) plus one-half of 1
14 percent of the unpaid principal sum secured exceeding fifty
15 thousand dollars (\$50,000) up to and including one hundred fifty
16 thousand dollars (\$150,000) plus one-quarter of 1 percent of any
17 portion of the unpaid principal sum secured exceeding one hundred
18 fifty thousand dollars (\$150,000).

19 (D) If the unpaid principal sum secured is greater than five
20 hundred thousand dollars (\$500,000), then in a base amount that
21 does not exceed three hundred dollars (\$300) plus one-half of 1
22 percent of the unpaid principal sum secured exceeding fifty
23 thousand dollars (\$50,000) up to and including one hundred fifty
24 thousand dollars (\$150,000) plus one-quarter of 1 percent of any
25 portion of the unpaid principal sum secured exceeding one hundred
26 fifty thousand dollars (\$150,000) up to and including five hundred
27 thousand dollars (\$500,000) plus one-eighth of 1 percent of any
28 portion of the unpaid principal sum secured exceeding five hundred
29 thousand dollars (\$500,000).

30 (2) Any charge for trustee's or attorney's fees authorized by
31 this subdivision shall be conclusively presumed to be lawful and
32 valid where the charge does not exceed the amounts authorized in
33 this subdivision. For purposes of this subdivision, the unpaid
34 principal sum secured shall be determined as of the date the notice
35 of default is recorded.

36 (e) Reinstatement of a monetary default under the terms of an
37 obligation secured by a deed of trust, or mortgage may be made
38 at any time within the period commencing with the date of
39 recordation of the notice of default until five business days prior
40 to the date of sale set forth in the initial recorded notice of sale.

1 In the event the sale does not take place on the date set forth in
2 the initial recorded notice of sale or a subsequent recorded notice
3 of sale is required to be given, the right of reinstatement shall be
4 revived as of the date of recordation of the subsequent notice of
5 sale, and shall continue from that date until five business days
6 prior to the date of sale set forth in the subsequently recorded notice
7 of sale.

8 In the event the date of sale is postponed on the date of sale set
9 forth in either an initial or any subsequent notice of sale, or is
10 postponed on the date declared for sale at an immediately preceding
11 postponement of sale, and, the postponement is for a period that
12 exceeds five business days from the date set forth in the notice of
13 sale, or declared at the time of postponement, then the right of
14 reinstatement is revived as of the date of postponement and shall
15 continue from that date until five business days prior to the date
16 of sale declared at the time of the postponement.

17 Nothing contained herein shall give rise to a right of
18 reinstatement during the period of five business days prior to the
19 date of sale, whether the date of sale is noticed in a notice of sale
20 or declared at a postponement of sale.

21 Pursuant to the terms of this subdivision, no beneficiary, trustee,
22 mortgagee, or their agents or successors shall be liable in any
23 manner to a trustor, mortgagor, their agents or successors or any
24 beneficiary under a subordinate deed of trust or mortgage or any
25 other person having a subordinate lien or encumbrance of record
26 thereon for the failure to allow a reinstatement of the obligation
27 secured by a deed of trust or mortgage during the period of five
28 business days prior to the sale of the security property, and no such
29 right of reinstatement during this period is created by this section.
30 Any right of reinstatement created by this section is terminated
31 five business days prior to the date of sale set forth in the initial
32 date of sale, and is revived only as prescribed herein and only as
33 of the date set forth herein.

34 As used in this subdivision, the term “business day” has the same
35 meaning as specified in Section 9.

36 SEC. 5. Section 2924g of the Civil Code, as amended by
37 Section 5 of Chapter 642 of the Statutes of 2022, is amended to
38 read:

39 2924g. (a) (1) All sales of property under the power of sale
40 contained in any deed of trust or mortgage shall be held in the

1 county where the property or some part thereof is situated, and
2 shall be made at auction, to the highest bidder, between the hours
3 of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

4 (2) (A) The sale shall commence at the time and location
5 specified in the notice of sale. Any postponement shall be
6 announced at the time and location specified in the notice of sale
7 for commencement of the sale or pursuant to paragraph (1) of
8 subdivision (c).

9 (B) A sale that is postponed pursuant to subparagraph (E) of
10 paragraph (1) of subdivision (c) shall be postponed ~~to the next~~
11 ~~business day~~ *seven calendar days* at the same time and location.

12 (3) If the sale of more than one parcel of real property has been
13 scheduled for the same time and location by the same trustee, (A)
14 any postponement of any of the sales shall be announced at the
15 time published in the notice of sale, (B) the first sale shall
16 commence at the time published in the notice of sale or
17 immediately after the announcement of any postponement, and
18 (C) each subsequent sale shall take place as soon as possible after
19 the preceding sale has been completed.

20 (4) Notwithstanding any other law, a sale of property under the
21 power of sale contained in any deed of trust or mortgage shall be
22 subject to the following restriction: a trustee shall not bundle
23 properties for the purpose of sale and each property shall be bid
24 on separately, unless the deed of trust or mortgage requires
25 otherwise.

26 (b) When the property consists of several known lots or parcels,
27 they shall be sold separately unless the deed of trust or mortgage
28 provides otherwise. When a portion of the property is claimed by
29 a third person, who requires it to be sold separately, the portion
30 subject to the claim may be thus sold. The trustor, if present at the
31 sale, may also, unless the deed of trust or mortgage otherwise
32 provides, direct the order in which property shall be sold, when
33 the property consists of several known lots or parcels which may
34 be sold to advantage separately, and the trustee shall follow that
35 direction. After sufficient property has been sold to satisfy the
36 indebtedness, no more can be sold.

37 If the property under power of sale is in two or more counties,
38 the public auction sale of all of the property under the power of
39 sale may take place in any one of the counties where the property
40 or a portion thereof is located.

1 (c) (1) There may be a postponement or postponements of the
2 sale proceedings, including a postponement upon instruction by
3 the beneficiary to the trustee that the sale proceedings be
4 postponed, at any time prior to the completion of the sale for any
5 period of time not to exceed a total of 365 days from the date set
6 forth in the notice of sale. The trustee shall postpone the sale in
7 accordance with any of the following:

8 (A) Upon the order of any court of competent jurisdiction.

9 (B) If stayed by operation of law.

10 (C) By mutual agreement, whether oral or in writing, of any
11 trustor and any beneficiary or any mortgagor and any mortgagee.

12 (D) At the discretion of the trustee.

13 (E) If an act of force majeure prevents access to the sale location
14 at the time of the sale.

15 (2) In the event that the sale proceedings are postponed for a
16 period or periods totaling more than 365 days, the scheduling of
17 any further sale proceedings shall be preceded by giving a new
18 notice of sale in the manner prescribed in Section 2924f. New fees
19 incurred for the new notice of sale shall not exceed the amounts
20 specified in Sections 2924c and 2924d, and shall not exceed
21 reasonable costs that are necessary to comply with this paragraph.

22 (d) (1) The notice of each postponement and the reason therefor
23 shall be given by public declaration by the trustee at the time and
24 place last appointed for sale. A public declaration of postponement
25 shall also set forth the new date, time, and place of sale and the
26 place of sale shall be the same place as originally fixed by the
27 trustee for the sale. No other notice of postponement need be given.
28 However, the sale shall be conducted no sooner than on the seventh
29 day after the earlier of (1) dismissal of the action or (2) expiration
30 or termination of the injunction, restraining order, or stay that
31 required postponement of the sale, whether by entry of an order
32 by a court of competent jurisdiction, operation of law, or otherwise,
33 unless the injunction, restraining order, or subsequent order
34 expressly directs the conduct of the sale within that seven-day
35 period. For purposes of this subdivision, the seven-day period shall
36 not include the day on which the action is dismissed, or the day
37 on which the injunction, restraining order, or stay expires or is
38 terminated. If the sale had been scheduled to occur, but this
39 subdivision precludes its conduct during that seven-day period, a
40 new notice of postponement shall be given if the sale had been

1 scheduled to occur during that seven-day period. The trustee shall
2 maintain records of each postponement and the reason therefor.

3 (2) The public declaration described in paragraph (1) shall not
4 be required if the sale is postponed because an act of force majeure
5 prevented access to the sale location.

6 (e) Notwithstanding the time periods established under
7 subdivision (d), if postponement of a sale is based on a stay
8 imposed by Title 11 of the United States Code (bankruptcy), the
9 sale shall be conducted no sooner than the expiration of the stay
10 imposed by that title and the seven-day provision of subdivision
11 (d) shall not apply.

12 (f) For purposes of this section, “an act of force majeure” means
13 an event that was unforeseeable at the time the sale was scheduled
14 that is outside of the trustee’s control and renders completion of
15 the sale impossible or impractical.

16 (g) This section shall remain in effect only until January 1, 2031,
17 and as of that date is repealed, unless a later enacted statute that
18 is enacted before January 1, 2031, deletes or extends that date.

19 SEC. 6. Section 2924g of the Civil Code, as amended by
20 Section 6 of Chapter 642 of the Statutes of 2022, is amended to
21 read:

22 2924g. (a) (1) All sales of property under the power of sale
23 contained in any deed of trust or mortgage shall be held in the
24 county where the property or some part thereof is situated, and
25 shall be made at auction, to the highest bidder, between the hours
26 of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

27 (2) The sale shall commence at the time and location specified
28 in the notice of sale. Any postponement shall be announced at the
29 time and location specified in the notice of sale for commencement
30 of the sale or pursuant to paragraph (1) of subdivision (c).

31 (3) If the sale of more than one parcel of real property has been
32 scheduled for the same time and location by the same trustee, all
33 of the following conditions apply:

34 (A) Any postponement of any of the sales shall be announced
35 at the time published in the notice of sale.

36 (B) The first sale shall commence at the time published in the
37 notice of sale or immediately after the announcement of any
38 postponement.

39 (C) Each subsequent sale shall take place as soon as possible
40 after the preceding sale has been completed.

(4) A sale that is postponed pursuant to subparagraph (E) of paragraph (1) of subdivision (c) shall be postponed ~~to the next business day~~ *seven calendar days* at the same time and location.

(b) When the property consists of several known lots or parcels, they shall be sold separately unless the deed of trust or mortgage provides otherwise. When a portion of the property is claimed by a third person, who requires it to be sold separately, the portion subject to the claim may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when the property consists of several known lots or parcels which may be sold to advantage separately, and the trustee shall follow that direction. After sufficient property has been sold to satisfy the indebtedness, no more can be sold.

If the property under power of sale is in two or more counties, the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(c) (1) There may be a postponement or postponements of the sale proceedings, including a postponement upon instruction by the beneficiary to the trustee that the sale proceedings be postponed, at any time prior to the completion of the sale for any period of time not to exceed a total of 365 days from the date set forth in the notice of sale. The trustee shall postpone the sale in accordance with any of the following:

- (A) Upon the order of any court of competent jurisdiction.
- (B) If stayed by operation of law.
- (C) By mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee.
- (D) At the discretion of the trustee.
- (E) If an act of force majeure prevents access to the sale location at the time of the sale.

(2) In the event that the sale proceedings are postponed for a period or periods totaling more than 365 days, the scheduling of any further sale proceedings shall be preceded by giving a new notice of sale in the manner prescribed in Section 2924f. New fees incurred for the new notice of sale shall not exceed the amounts specified in Sections 2924c and 2924d, and shall not exceed reasonable costs that are necessary to comply with this paragraph.

(d) (1) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. A public declaration of postponement shall also set forth the new date, time, and place of sale and the place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. However, the sale shall be conducted no sooner than on the seventh day after the earlier of (1) dismissal of the action or (2) expiration or termination of the injunction, restraining order, or stay that required postponement of the sale, whether by entry of an order by a court of competent jurisdiction, operation of law, or otherwise, unless the injunction, restraining order, or subsequent order expressly directs the conduct of the sale within that seven-day period. For purposes of this subdivision, the seven-day period shall not include the day on which the action is dismissed, or the day on which the injunction, restraining order, or stay expires or is terminated. If the sale had been scheduled to occur, but this subdivision precludes its conduct during that seven-day period, a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The trustee shall maintain records of each postponement and the reason therefor.

(2) The public declaration described in paragraph (1) shall not be required if the sale is postponed because an act of force majeure prevented access to the sale location.

(e) Notwithstanding the time periods established under subdivision (d), if postponement of a sale is based on a stay imposed by Title 11 of the United States Code (bankruptcy), the sale shall be conducted no sooner than the expiration of the stay imposed by that title and the seven-day provision of subdivision (d) shall not apply.

(f) For purposes of this section, “an act of force majeure” means an event that was unforeseeable at the time the sale was scheduled that is outside of the trustee’s control and renders completion of the sale impossible or impractical.

(g) This section shall be operative January 1, 2031.

SEC. 7. Section 2924h of the Civil Code, as amended by Section 7 of Chapter 642 of the Statutes of 2022, is amended to read:

2924h. (a) Each and every bid made by a bidder at a trustee’s sale under a power of sale contained in a deed of trust or mortgage

1 shall be deemed to be an irrevocable offer by that bidder to
2 purchase the property being sold by the trustee under the power
3 of sale for the amount of the bid. Any second or subsequent bid
4 by the same bidder or any other bidder for a higher amount shall
5 be a cancellation of the prior bid.

6 (b) At the trustee's sale, the trustee shall have the right to require
7 any of the following:

8 (1) Every bidder to show evidence of the bidder's ability to
9 deposit with the trustee the full amount of their final bid in cash,
10 a cashier's check drawn on a state or national bank, a check drawn
11 by a state or federal credit union, or a check drawn by a state or
12 federal savings and loan association, savings association, or savings
13 bank specified in Section 5102 of the Financial Code and
14 authorized to do business in this state, or a cash equivalent which
15 has been designated in the notice of sale as acceptable to the trustee
16 prior to, and as a condition to, the recognizing of the bid, and to
17 conditionally accept and hold these amounts for the duration of
18 the sale.

19 (2) Any bid that is not cash to be made directly payable to the
20 trustee, if the requirement is set forth by the trustee in the notice
21 of sale.

22 (3) The last and highest bidder to deposit, if not deposited
23 previously, the full amount of the bidder's final bid in cash, a
24 cashier's check drawn on a state or national bank, a check drawn
25 by a state or federal credit union, or a check drawn by a state or
26 federal savings and loan association, savings association, or savings
27 bank specified in Section 5102 of the Financial Code and
28 authorized to do business in this state, or a cash equivalent which
29 has been designated in the notice of sale as acceptable to the trustee,
30 immediately prior to the completion of the sale, the completion of
31 the sale being so announced by the fall of the hammer or in another
32 customary manner. The present beneficiary of the deed of trust
33 under foreclosure shall have the right to offset their bid or bids
34 only to the extent of the total amount due the beneficiary including
35 the trustee's fees and expenses.

36 (c) In the event the trustee accepts a check drawn by a credit
37 union or a savings and loan association pursuant to this subdivision
38 or a cash equivalent designated in the notice of sale, the trustee
39 may withhold the issuance of the trustee's deed to the successful
40 bidder submitting the check drawn by a state or federal credit union

1 or savings and loan association or the cash equivalent until funds
2 become available to the payee or endorsee as a matter of right.
3 The trustee may require the successful bidder to replace the check
4 drawn by a credit union or a savings and loan association or cash
5 equivalent pursuant to this subdivision with a check drawn by a
6 credit union or a savings and loan association or cash equivalent
7 to this subdivision made directly payable to the trustee if necessary
8 for the funds to be made available to the trustee.

9 For the purposes of this subdivision, the trustee's sale shall be
10 deemed final upon the acceptance of the last and highest bid, and
11 shall be deemed perfected as of 8 a.m. on the actual date of sale
12 if the trustee's deed is recorded within 21 calendar days after the
13 sale, or the next business day following the 21st day if the county
14 recorder in which the property is located is closed on the 21st day.
15 If an eligible bidder submits a written notice of intent to bid
16 pursuant to paragraph (3) of subdivision (c) of Section 2924m, the
17 trustee's sale shall be deemed perfected as of 8 a.m. on the actual
18 date of sale if the trustee's deed is recorded within 60 calendar
19 days after the sale or the next business day following the 60th day
20 if the county recorder in which the property is located is closed on
21 the 60th day. However, the sale is subject to an automatic rescission
22 for a failure of consideration in the event the funds are not
23 "available for withdrawal" as defined in Section 12413.1 of the
24 Insurance Code. The trustee shall send a notice of rescission for a
25 failure of consideration to the last and highest bidder submitting
26 the check or alternative instrument, if the address of the last and
27 highest bidder is known to the trustee.

28 If a sale results in an automatic right of rescission for failure of
29 consideration pursuant to this subdivision, the interest of any
30 lienholder shall be reinstated in the same priority as if the previous
31 sale had not occurred.

32 (d) If the trustee has not required the last and highest bidder to
33 deposit the cash, a cashier's check drawn on a state or national
34 bank, a check drawn by a state or federal credit union, or a check
35 drawn by a state or federal savings and loan association, savings
36 association, or savings bank specified in Section 5102 of the
37 Financial Code and authorized to do business in this state, or a
38 cash equivalent which has been designated in the notice of sale as
39 acceptable to the trustee in the manner set forth in paragraph (2)
40 of subdivision (b), the trustee shall complete the sale. If the last

1 and highest bidder then fails to deliver to the trustee, when
2 demanded, the amount of their final bid in cash, a cashier's check
3 drawn on a state or national bank, a check drawn by a state or
4 federal credit union, or a check drawn by a state or federal savings
5 and loan association, savings association, or savings bank specified
6 in Section 5102 of the Financial Code and authorized to do business
7 in this state, or a cash equivalent which has been designated in the
8 notice of sale as acceptable to the trustee, that bidder shall be liable
9 to the trustee for all damages which the trustee may sustain by the
10 refusal to deliver to the trustee the amount of the final bid,
11 including any court costs and reasonable attorneys' fees.

12 If the last and highest bidder willfully fails to deliver to the
13 trustee the amount of their final bid in cash, a cashier's check
14 drawn on a state or national bank, a check drawn by a state or
15 federal credit union, or a check drawn by a state or federal savings
16 and loan association, savings association, or savings bank specified
17 in Section 5102 of the Financial Code and authorized to do business
18 in this state, or a cash equivalent which has been designated in the
19 notice of sale as acceptable to the trustee, or if the last and highest
20 bidder cancels a ~~cashier's~~ cashier's check drawn on a state or
21 national bank, a check drawn by a state or federal credit union, or
22 a check drawn by a state or federal savings and loan association,
23 savings association, or savings bank specified in Section 5102 of
24 the Financial Code and authorized to do business in this state, or
25 a cash equivalent that has been designated in the notice of sale as
26 acceptable to the trustee, that bidder shall be guilty of a
27 misdemeanor punishable by a fine of not more than two thousand
28 five hundred dollars (\$2,500).

29 In the event the last and highest bidder cancels an instrument
30 submitted to the trustee as a cash equivalent, the trustee shall
31 provide a new notice of sale in the manner set forth in Section
32 2924f and shall be entitled to recover the costs of the new notice
33 of sale as provided in Section 2924c.

34 (e) Any postponement or discontinuance of the sale proceedings
35 shall be a cancellation of the last bid.

36 (f) Except as specifically provided in Section 2924m, in the
37 event that this section conflicts with any other statute, then this
38 section shall prevail.

39 (g) It shall be unlawful for any person, acting alone or in concert
40 with others, (1) to offer to accept or accept from another, any

1 consideration of any type not to bid, or (2) to fix or restrain bidding
2 in any manner, at a sale of property conducted pursuant to a power
3 of sale in a deed of trust or mortgage. However, it shall not be
4 unlawful for any person, including a trustee, to state that a property
5 subject to a recorded notice of default or subject to a sale conducted
6 pursuant to this chapter is being sold in an “as-is” condition.

7 In addition to any other remedies, any person committing any
8 act declared unlawful by this subdivision or any act which would
9 operate as a fraud or deceit upon any beneficiary, trustor, or junior
10 lienor shall, upon conviction, be fined not more than ten thousand
11 dollars (\$10,000) or imprisoned in the county jail for not more
12 than one year, or be punished by both that fine and imprisonment.

13 (h) This section shall remain in effect only until January 1, 2031,
14 and as of that date is repealed, unless a later enacted statute that
15 is enacted before January 1, 2031, deletes or extends that date.

16 (i) The amendments made to this section by the bill adding this
17 subdivision shall become operative on January 1, 2022.

18 SEC. 8. Section 2924h of the Civil Code, as amended by
19 Section 8 of Chapter 642 of the Statutes of 2022, is amended to
20 read:

21 2924h. (a) Each and every bid made by a bidder at a trustee’s
22 sale under a power of sale contained in a deed of trust or mortgage
23 shall be deemed to be an irrevocable offer by that bidder to
24 purchase the property being sold by the trustee under the power
25 of sale for the amount of the bid. Any second or subsequent bid
26 by the same bidder or any other bidder for a higher amount shall
27 be a cancellation of the prior bid.

28 (b) At the trustee’s sale, the trustee shall have the right to require
29 any of the following:

30 (1) Every bidder to show evidence of the bidder’s ability to
31 deposit with the trustee the full amount of their final bid in cash,
32 a cashier’s check drawn on a state or national bank, a check drawn
33 by a state or federal credit union, or a check drawn by a state or
34 federal savings and loan association, savings association, or savings
35 bank specified in Section 5102 of the Financial Code and
36 authorized to do business in this state, or a cash equivalent which
37 has been designated in the notice of sale as acceptable to the trustee
38 prior to, and as a condition to, the recognizing of the bid, and to
39 conditionally accept and hold these amounts for the duration of
40 the sale.

1 (2) Any bid that is not cash to be made directly payable to the
2 trustee, if the requirement is set forth by the trustee in the notice
3 of sale.

4 (3) The last and highest bidder to deposit, if not deposited
5 previously, the full amount of the bidder's final bid in cash, a
6 cashier's check drawn on a state or national bank, a check drawn
7 by a state or federal credit union, or a check drawn by a state or
8 federal savings and loan association, savings association, or savings
9 bank specified in Section 5102 of the Financial Code and
10 authorized to do business in this state, or a cash equivalent which
11 has been designated in the notice of sale as acceptable to the trustee,
12 immediately prior to the completion of the sale, the completion of
13 the sale being so announced by the fall of the hammer or in another
14 customary manner. The present beneficiary of the deed of trust
15 under foreclosure shall have the right to offset their bid or bids
16 only to the extent of the total amount due the beneficiary including
17 the trustee's fees and expenses.

18 (c) In the event the trustee accepts a check drawn by a credit
19 union or a savings and loan association pursuant to this subdivision
20 or a cash equivalent designated in the notice of sale, the trustee
21 may withhold the issuance of the trustee's deed to the successful
22 bidder submitting the check drawn by a state or federal credit union
23 or savings and loan association or the cash equivalent until funds
24 become available to the payee or endorsee as a matter of right.
25 The trustee may require the successful bidder to replace the check
26 drawn by a credit union or a savings and loan association or cash
27 equivalent pursuant to this subdivision with a check drawn by a
28 credit union or a savings and loan association or cash equivalent
29 to this subdivision made directly payable to the trustee if necessary
30 for the funds to be made available to the trustee.

31 For the purposes of this subdivision, the trustee's sale shall be
32 deemed final upon the acceptance of the last and highest bid, and
33 shall be deemed perfected as of 8 a.m. on the actual date of sale
34 if the trustee's deed is recorded within 15 calendar days after the
35 sale, or the next business day following the 15th day if the county
36 recorder in which the property is located is closed on the 15th day.
37 However, the sale is subject to an automatic rescission for a failure
38 of consideration in the event the funds are not "available for
39 withdrawal" as defined in Section 12413.1 of the Insurance Code.

40 The trustee shall send a notice of rescission for a failure of

1 consideration to the last and highest bidder submitting the check
2 or alternative instrument, if the address of the last and highest
3 bidder is known to the trustee.

4 If a sale results in an automatic right of rescission for failure of
5 consideration pursuant to this subdivision, the interest of any
6 lienholder shall be reinstated in the same priority as if the previous
7 sale had not occurred.

8 (d) If the trustee has not required the last and highest bidder to
9 deposit the cash, a cashier's check drawn on a state or national
10 bank, a check drawn by a state or federal credit union, or a check
11 drawn by a state or federal savings and loan association, savings
12 association, or savings bank specified in Section 5102 of the
13 Financial Code and authorized to do business in this state, or a
14 cash equivalent which has been designated in the notice of sale as
15 acceptable to the trustee in the manner set forth in paragraph (2)
16 of subdivision (b), the trustee shall complete the sale. If the last
17 and highest bidder then fails to deliver to the trustee, when
18 demanded, the amount of their final bid in cash, a cashier's check
19 drawn on a state or national bank, a check drawn by a state or
20 federal credit union, or a check drawn by a state or federal savings
21 and loan association, savings association, or savings bank specified
22 in Section 5102 of the Financial Code and authorized to do business
23 in this state, or a cash equivalent which has been designated in the
24 notice of sale as acceptable to the trustee, that bidder shall be liable
25 to the trustee for all damages which the trustee may sustain by the
26 refusal to deliver to the trustee the amount of the final bid,
27 including any court costs and reasonable attorneys' fees.

28 If the last and highest bidder willfully fails to deliver to the
29 trustee the amount of their final bid in cash, a cashier's check
30 drawn on a state or national bank, a check drawn by a state or
31 federal credit union, or a check drawn by a state or federal savings
32 and loan association, savings association, or savings bank specified
33 in Section 5102 of the Financial Code and authorized to do business
34 in this state, or a cash equivalent which has been designated in the
35 notice of sale as acceptable to the trustee, or if the last and highest
36 bidder cancels a ~~cashier's~~ *cashier's* check drawn on a state or
37 national bank, a check drawn by a state or federal credit union, or
38 a check drawn by a state or federal savings and loan association,
39 savings association, or savings bank specified in Section 5102 of
40 the Financial Code and authorized to do business in this state, or

1 a cash equivalent that has been designated in the notice of sale as
2 acceptable to the trustee, that bidder shall be guilty of a
3 misdemeanor punishable by a fine of not more than two thousand
4 five hundred dollars (\$2,500).

5 In the event the last and highest bidder cancels an instrument
6 submitted to the trustee as a cash equivalent, the trustee shall
7 provide a new notice of sale in the manner set forth in Section
8 2924f and shall be entitled to recover the costs of the new notice
9 of sale as provided in Section 2924c.

10 (e) Any postponement or discontinuance of the sale proceedings
11 shall be a cancellation of the last bid.

12 (f) In the event that this section conflicts with any other statute,
13 then this section shall prevail.

14 (g) It shall be unlawful for any person, acting alone or in concert
15 with others, (1) to offer to accept or accept from another, any
16 consideration of any type not to bid, or (2) to fix or restrain bidding
17 in any manner, at a sale of property conducted pursuant to a power
18 of sale in a deed of trust or mortgage. However, it shall not be
19 unlawful for any person, including a trustee, to state that a property
20 subject to a recorded notice of default or subject to a sale conducted
21 pursuant to this chapter is being sold in an “as-is” condition.

22 In addition to any other remedies, any person committing any
23 act declared unlawful by this subdivision or any act which would
24 operate as a fraud or deceit upon any beneficiary, trustor, or junior
25 lienor shall, upon conviction, be fined not more than ten thousand
26 dollars (\$10,000) or imprisoned in the county jail for not more
27 than one year, or be punished by both that fine and imprisonment.

28 (h) This section shall be operative January 1, 2031.

29 SEC. 9. Section 2924m of the Civil Code is amended to read:
30 2924m. (a) For purposes of this section:

31 (1) “Prospective owner-occupant” means a natural person who
32 presents to the trustee an affidavit or declaration, pursuant to
33 Section 2015.5 of the Code of Civil Procedure, that:

34 (A) They will occupy the property as their primary residence
35 within 60 days of the trustee’s deed being recorded.

36 (B) They will maintain their occupancy for at least one year.

37 (C) They are not any of the following:

38 (i) The mortgagor or trustor.

39 (ii) The child, spouse, or parent of the mortgagor or trustor.

1 (iii) The grantor of a living trust that was named in the title to
2 the property when the notice of default was recorded.

3 (iv) An employee, officer, or member of the mortgagor or
4 trustor.

5 (v) A person with an ownership interest in the mortgagor, unless
6 the mortgagor is a publicly traded company.

7 (D) They are not acting as the agent of any other person or entity
8 in purchasing the real property.

9 (2) “Eligible tenant buyer” means a natural person who at the
10 time of the trustee’s sale:

11 (A) Is occupying the real property as their primary residence.

12 (B) Is occupying the real property under a rental or lease
13 agreement entered into as the result of an arm’s-length transaction
14 with the mortgagor or trustor, or with the mortgagor or trustor’s
15 predecessor in interest, on a date prior to the recording of the notice
16 of default against the property, and who attaches evidence
17 demonstrating the existence of the tenancy to the affidavit or
18 declaration required pursuant to subparagraph (B) of paragraph
19 (2) of subdivision (c).

20 (C) Is not the mortgagor or trustor, or the child, spouse, or parent
21 of the mortgagor or trustor.

22 (D) Is not acting as the agent of any other person or entity in
23 purchasing the real property. Submission of a bid pursuant to
24 paragraph (3) of subdivision (c) does not violate this subparagraph.

25 (E) Has not filed a petition under Chapter 7, 11, 12, or 13 of
26 Title 11 of the United States Code at any time during the period
27 from the date of the trustee’s sale of the property to the 45th day
28 after the trustee’s sale, or the next business day following the 45th
29 day if the 45th day is a weekend or holiday.

30 (3) “Eligible bidder” means any of the following:

31 (A) An eligible tenant buyer.

32 (B) A prospective owner-occupant.

33 (C) A nonprofit association, nonprofit corporation, or
34 cooperative corporation in which an eligible tenant buyer is a
35 voting member or director.

36 (D) An eligible nonprofit corporation with all of the following
37 attributes:

38 (i) It has a determination letter from the Internal Revenue
39 Service affirming its tax-exempt status pursuant to Section
40 501(c)(3) of the Internal Revenue Code and is not a private

1 foundation as that term is defined in Section 509 of the Internal
2 Revenue Code.

3 (ii) It has its principal place of business in California.

4 (iii) The primary residences of all board members are located
5 in California.

6 (iv) One of its primary activities is the development and
7 preservation of affordable rental or homeownership housing in
8 California.

9 (v) It is registered and in good standing with the Attorney
10 General's Registry of Charities and Fundraisers, pursuant to the
11 Supervision of Trustees and Fundraisers for Charitable Purposes
12 Act (Article 7 (commencing with Section 12580) of Chapter 6 of
13 Part 2 of Division 3 of Title 2 of the Government Code).

14 (E) A limited liability company wholly owned by one or more
15 eligible nonprofit corporations as described in subparagraph (C)
16 or (D).

17 (F) A community land trust, as defined in clause (ii) of
18 subparagraph (C) of paragraph (11) of subdivision (a) of Section
19 402.1 of the Revenue and Taxation Code.

20 (G) A limited-equity housing cooperative as defined in Section
21 817.

22 (H) The state, the Regents of the University of California, a
23 county, city, district, public authority, or public agency, and any
24 other political subdivision or public corporation in the state.

25 (4) "Evidence demonstrating the existence of the tenancy" means
26 a copy of the dated and signed rental or lease agreement or, if a
27 copy of the dated and signed rental or lease agreement is not
28 available, then one of the following:

29 (A) Evidence of rent payments made for the property by the
30 person asserting that they are an eligible tenant buyer for the six
31 months prior to the recording of the notice of default.

32 (B) Copies of utility bills for the property payable by the person
33 asserting that they are an eligible tenant buyer for the six months
34 prior to the recording of the notice of default.

35 (b) This section does not prevent an eligible tenant buyer who
36 meets the conditions set forth in paragraph (1) of subdivision (a)
37 from being deemed a prospective owner-occupant.

38 (c) A trustee's sale of property under a power of sale contained
39 in a deed of trust or mortgage on real property containing one to

1 four residential units pursuant to Section 2924g shall not be deemed
2 final until the earliest of the following:

3 (1) If a prospective owner-occupant is the last and highest bidder
4 at the trustee's sale, the date upon which the conditions set forth
5 in Section 2924h for the sale to become final are met. The
6 prospective owner-occupant shall submit to the trustee the affidavit
7 or declaration described in paragraph (1) of subdivision (a) at the
8 trustee's sale or to the trustee by 5 p.m. on the next business day
9 following the trustee's sale.

10 (2) Fifteen days after the trustee's sale unless at least one eligible
11 tenant buyer or eligible bidder submits to the trustee either a bid
12 pursuant to paragraph (3) or (4) or a nonbinding written notice of
13 intent to place such a bid. The bid or written notice of intent to
14 place a bid shall:

15 (A) Be sent to the trustee by certified mail, overnight delivery,
16 or another method that allows for confirmation of the delivery
17 date.

18 (B) Be accompanied by an affidavit or declaration, pursuant to
19 Section 2015.5 of the Code of Civil Procedure, identifying the
20 category set forth in paragraph (3) of subdivision (a) to which the
21 person or entity submitting the bid or nonbinding written notice
22 of intent belongs and stating that the person meets the criteria for
23 that category. If the winning bid is placed by an eligible bidder
24 described in subparagraphs (C) to (G), inclusive, of paragraph (3)
25 of subdivision (a), the affidavit or declaration shall affirm the
26 bidder's duty to comply with subdivision (a) of Section 2924o for
27 the benefit of tenants occupying the property.

28 (C) Be received by the trustee no later than 5 p.m. on the 15th
29 day after the trustee's sale, or the next business day following the
30 15th day if the 15th day is a weekend or holiday.

31 (D) Contain a current telephone number and return mailing
32 address for the person submitting the bid or nonbinding written
33 notice of intent.

34 (3) (A) The date upon which a representative of all of the
35 eligible tenant buyers submits to the trustee a bid in an amount
36 equal to the full amount of the last and highest bid at the trustee's
37 sale, in the form of cash, a cashier's check drawn on a state or
38 national bank, a cashier's check drawn by a state or federal credit
39 union, or a cashier's check drawn by a state or federal savings and
40 loan association, savings association, or savings bank specified in

1 Section 5102 of the Financial Code and authorized to do business
2 in this state. This bid shall:

3 (i) Be sent to the trustee by certified mail, overnight delivery,
4 or another method that allows for confirmation of the delivery ~~date~~
5 ~~and shall date~~.

6 (ii) Be accompanied by an affidavit or declaration, pursuant to
7 Section 2015.5 of the Code of Civil Procedure, stating that the
8 persons represented meet the criteria set forth in paragraph (2) of
9 subdivision (a), and that the persons represented are all of the
10 eligible tenant buyers.

11 (iii) Meet either of the following criteria:

12 (I) Be received by the trustee no later than 5 p.m. on the 15th
13 day after the trustee's sale, the next business day following the
14 15th day if the 15th day is a weekend or holiday.

15 (II) Be received by the trustee no later than 5 p.m. on the 45th
16 day after the trustee's sale, or the next business day following the
17 45th day if the 45th day is a weekend or holiday, if at least one of
18 the eligible tenant buyers submitted a nonbinding written notice
19 of intent to place a bid pursuant to paragraph (2).

20 (iv) Contain a current telephone number and return mailing
21 address for the person submitting the bid.

22 (v) Be limited to a single bid amount and not contain instructions
23 for successive bid amounts.

24 (B) If the conditions in this paragraph are satisfied, the eligible
25 tenant buyers shall be deemed the last and highest bidder pursuant
26 to the power of sale.

27 (4) (A) Forty-five days after the trustee's sale, except that during
28 the 45-day period, an eligible bidder may submit to the trustee a
29 bid in an amount that exceeds the last and highest bid at the
30 trustee's sale, in the form of cash, a cashier's check drawn on a
31 state or national bank, a cashier's check drawn by a state or federal
32 credit union, or a cashier's check drawn by a state or federal
33 savings and loan association, savings association, or savings bank
34 specified in Section 5102 of the Financial Code and authorized to
35 do business in this state. The bid shall:

36 (i) Be sent to the trustee by certified mail, overnight delivery,
37 or another method that allows for confirmation of the delivery
38 date.

39 (ii) Be accompanied by an affidavit or declaration, pursuant to
40 Section 2015.5 of the Code of Civil Procedure, identifying the

1 category set forth in paragraph (3) of subdivision (a) to which the
2 eligible bidder belongs and stating that the eligible bidder meets
3 the criteria for that category.

4 (iii) Be received by the trustee no later than 5 p.m. on the 45th
5 day after the trustee's sale, or the next business day following the
6 45th day if the 45th day is a weekend or holiday, if the eligible
7 bidder submitted a nonbinding written notice of intent to bid
8 pursuant to paragraph (2). Notwithstanding clause (i), on the last
9 day that bids are eligible to be received by the trustee under this
10 clause, the trustee shall not receive any bid that is not sent by
11 certified mail with the United States Postal Service or by another
12 overnight mail courier service with tracking information that
13 confirms the recipient's signature and the date and time of receipt
14 and delivery.

15 (iv) Contain a current telephone number and return mailing
16 address for the person submitting the bid.

17 (B) As of 5 p.m. on the 45th day after the trustee's sale, if one
18 or more eligible bidders has submitted a bid that meets the
19 conditions in this paragraph, the eligible bidder that submitted the
20 highest bid shall be deemed the last and highest bidder pursuant
21 to the power of sale. The trustee shall return any losing bid to the
22 eligible bidder that submitted it.

23 (d) The trustee may reasonably rely on affidavits and
24 declarations regarding bidder eligibility received under this section.
25 The affidavit or declaration of the winning bidder shall be attached
26 as an exhibit to the trustee's deed and recorded.

27 (e) If the conditions set forth in paragraph (1) of subdivision (c)
28 for a sale to be deemed final are not met, then:

29 (1) Not later than 48 hours after the trustee's sale of property
30 under Section 2924g, the trustee or an authorized agent shall post
31 on the internet website set forth on the notice of sale, as required
32 under paragraph (8) of subdivision (b) of Section 2924f, the
33 following information:

34 (A) The date on which the trustee's sale took place.

35 (B) The amount of the last and highest bid at the trustee's sale.

36 (C) An address at which the trustee can receive documents sent
37 by United States mail and by a method of delivery providing for
38 overnight delivery.

39 (2) The information required to be posted on the internet website
40 under paragraph (1) shall also be made available not later than 48

1 hours after the trustee's sale of property under Section 2924g by
2 calling the telephone number set forth on the notice of sale as
3 required under paragraph (8) of subdivision (b) of Section 2924f.

4 (3) The information required to be provided under paragraphs
5 (1) and (2) shall be made available using the file number assigned
6 to the case that is set forth on the notice of sale as required under
7 paragraph (8) of subdivision (b) of Section 2924f.

8 (4) The information required to be provided under paragraphs
9 (1) and (2) shall be made available for a period of not less than 45
10 days after the sale of property under Section 2924g.

11 (5) A disruption of any of these methods of providing the
12 information required under paragraphs (1) and (2) to allow for
13 reasonable maintenance or due to a service outage shall not be
14 deemed to be a violation of this subdivision.

15 (6) The information to be provided by the trustee to eligible
16 bidders or to persons considering whether to submit a bid or notice
17 of intent to bid pursuant to this section is limited to the information
18 set forth in paragraph (1).

19 (f) Title to the property shall remain with the mortgagor or
20 trustor until the property sale is deemed final as provided in this
21 section.

22 (g) A prospective owner-occupant shall not be in violation of
23 this section if a legal owner's compliance with the requirements
24 of Section 2924n renders them unable to occupy the property as
25 their primary residence within 60 days of the trustee's deed being
26 recorded.

27 (h) This section shall prevail over any conflicting provision of
28 Section 2924h.

29 (i) For trustee's sales where the winning bidder is an eligible
30 bidder under this section, the trustee or an authorized agent shall
31 electronically send the following information to the office of the
32 Attorney General within 15 days of the sale being deemed final:

33 (1) The dates when the trustee's sale took place and when it
34 was deemed final.

35 (2) The name of the winning bidder.

36 (3) The street address and assessor's parcel number of the
37 subject property.

38 (4) A copy of the trustee's deed, as recorded, including the
39 attached affidavit or declaration of the winning bidder.

1 (5) The category set forth in paragraph (3) of subdivision (a) to
2 which the eligible bidder belongs.

3 (j) The Attorney General, a county counsel, a city attorney, or
4 a district attorney may bring an action for specific performance or
5 any other remedy at equity or at law to enforce this section.

6 (k) The Department of Justice shall include a summary of
7 information contained in the reports received pursuant to
8 subdivision (i) in a searchable repository on its official internet
9 website.

10 (l) The pendency of a determination of finality under subdivision
11 (c) shall not cause termination of any hazard insurance coverage
12 in effect at the time of the trustee's sale.

13 (m) This section shall remain in effect only until January 1,
14 2031, and as of that date is repealed, unless a later enacted statute
15 that is enacted before January 1, 2031, deletes or extends that date.