SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 238 (Harabedian)
Version: June 3, 2025
Hearing Date: June 24, 2025
Fiscal: Yes
Urgency: Yes
ID

SUBJECT

Mortgage forbearance: state of emergency: wildfire

DIGEST

This bill permits a homeowner experiencing financial hardship that prevents them from making timely payments on a residential mortgage due to the Los Angeles wildfires of January 2025 to request payment forbearance on their mortgage, as specified.

EXECUTIVE SUMMARY

In early January 2025, extremely dry conditions and high winds in Los Angeles resulted in two of the worst wildfires in state history: the Palisades and Eaton fires. The fires burned 37,469 acres and damaged or destroyed almost 18,000 structures, including 373 mobilehomes, and resulted in 29 fatalities. In addition, just under 13,000 households were displaced by the Palisades and Eaton fires, exacerbating Los Angeles' ongoing housing and homelessness crises. Many homeowners were significantly affected by the wildfires, because their properties were covered by hazardous debris and ash, significantly damaged, or completely destroyed by the blazes. Homeowners whose homes were damaged or destroyed found themselves searching for temporary housing while they worked to rebuild or clean up their properties, all while still having mortgage payments due. Thus, many homeowners have experienced significant financial strain as a result of the fires, which likely put many at risk of default on their mortgages and foreclosure. While major mortgage servicers offered temporary payment forbearance for victims of the wildfires pursuant to an agreement with the Governor, this forbearance period has almost expired. AB 238 proposes to permit homeowners of properties with four or fewer residential units to request payment forbearance for an initial 90-day period, and for additional 90-day periods up to a maximum of 12 months of forbearance. AB 238 would prohibit a mortgage servicer from assessing late fees or charging a higher, default interest rate during the period of forbearance, or from initiating or carrying out any foreclosure proceedings. AB 238 also would require mortgage servicers to suspend submitting delinquent payment information to credit reporting agencies for any period of forbearance when the borrower was current on their mortgage when they entered into forbearance. The bill contains an urgency clause. AB 238 is author-sponsored, and is supported by the City and County of Los Angeles, the California Apartment Association, and a number of other organizations. It is opposed by the California Data Industry Association. It previously passed out of the Senate Banking and Financial Institutions Committee by a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Establishes comprehensive procedures for conducting a non-judicial foreclosure sale, pursuant to a power of sale in the deed or mortgage, through an auction conducted by a trustee (also known as the "trustee's sale"). (Civ. Code §§ 2924g and 2924h.)

2) Prohibits a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent from recording a notice of default until specified actions have been taken, including the following:
   a) the mortgage servicer contacts the borrower in person or by telephone at least 30 days before the recording of the notice of default to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure; and
   b) the mortgage servicer processes a complete application for a first lien loan modification application. (Civ. Code §§ 2923.5(a)(2) and 2923.55(b)(2).)

3) If the mortgage servicer has not been able to contact the borrower in person or by telephone despite due diligence, the mortgage servicer may notify the borrower pursuant to (2), above, by mailing a first-class letter that includes the telephone number provided by HUD to find a HUD-certified housing counseling agency. (Civ. Code §§ 2923.5(e)(1) and 2923.55(f)(1).)

4) Prohibits a mortgage servicer from taking specified acts related to foreclosure while a borrower's application for loan modification is pending. (Civ. Code § 2924.11.)

This bill:

1) Establishes the "Mortgage Forbearance Act."

2) Permits a borrower experiencing financial hardship that prevents them from making timely payments on a residential mortgage loan due to the Eaton and Palisades fires or the Straight-line Winds to request payment forbearance on their residential mortgage. Specifies that this period of forbearance be for a period of up to 90 days, which must be extended in 90-day segments at the request of the borrower, up to a

maximum forbearance period of 12 months. Specifies that any forbearance provided by the mortgage servicer prior to this bill's enactment that was related to the wildfires must be included in this total forbearance period.

3) Requires that the borrower submit a request for forbearance by the earlier of: six months after the termination of the state of emergency issued by the Governor on January 7, 2025; or January 7, 2027. Requires a borrower to affirm that they are experiencing financial hardship due to the wildfire disaster in this request.

4) Requires the mortgage servicer to notify the borrower within 10 business days whether the request for forbearance is approved, and if the mortgage servicer denies the forbearance request, requires the mortgage servicer to provide written notice to the borrower stating the specific reason for denial, in order to not be in violation of the bill's provisions. Specifies that, if this notice cites a defect in the borrower's request that is curable, the borrower must identify the curable defect and provide the borrower 21 days to cure the defect.

5) Prohibits a mortgage servicer from assessing any late fees or charging a default rate of interest for the period of forbearance, and prohibits mortgage servicers from initiating any foreclosure process, moving for a foreclosure judgment or order of sale, or from executing a foreclosure-related eviction or foreclosure sale if the borrower is performing the terms required under the forbearance.

6) Requires the mortgage servicer to provide written notice, no later than 30 calendar days before the end of the initial forbearance period, that discloses any required forms or documentation for requesting an additional period of forbearance and the deadlines and timelines for considering any request for an additional period of forbearance.

7) Requires a mortgage servicer to report the credit obligations of borrowers under a disaster-related forbearance plan in compliance with the Fair Credit Reporting Act and federal guidelines, and requires, for borrowers in forbearance who were current on their mortgage at the time they entered forbearance, that the mortgage servicer suspend reporting delinquencies to the consumer reporting agencies and not furnish information regarding payment forbearance to consumer reporting agencies.

8) Requires that a mortgage servicer disclose to a recipient of forbearance at the beginning of the forbearance period that the forborne mortgage payments are required to be repaid. Prohibits a mortgage servicer from requiring a borrower who was current on their mortgage when they entered into forbearance to pay a lump sum.

9) Specifies that a failure to comply with these provisions shall not affect the validity of a trustee's sale or a sale to a bona fide purchaser for value.

10) Specifies that, for federally-backed loans, a person may not be held liable for a violation of these provisions if compliance with these provisions conflicts with the servicing guidelines applicable to the federally-backed loan. For a mortgage not federally-backed, specifies that the person may not be held liable for a violation of these provisions if compliance with these provisions conflicts with the servicing guidelines issued by Fannie Mae or Freddie Mac.

11) Requires the Department of Financial Protection and Innovation to post links to the servicing guidelines pertaining to disaster-related forbearance relief for federally-backed loans, a summary of Fannie Mae and Freddie Mac guidance on their forbearance programs, and a dedicated telephone number for borrowers seeking assistance.

12) Specifies that this bill applies to a depository institution chartered under federal or state law and a person covered by specified licensing statutes.

13) Defines, for the purposes of its provisions, the following:
    a) "borrower" to mean a natural person who is a mortgagor or trustor, or someone who holds a power of attorney for a mortgagor or trustor, and not a person who has surrendered their property or who has a recorded notice of default against their property that was recorded before the wildfire disaster;
    b) "mortgage servicer" to mean a person or entity who directly services a loan or who is responsible for interacting with the borrower, managing the loan account or any escrow account, or enforcing the note and security instrument, but not to mean a subservicing agent or a trustee or their agent;
    c) "residential mortgage loan" to mean a loan that is secured by residential real property improved by four or fewer residential units; and
    d) "wildfire disaster" to mean the conditions described in the state of emergency proclamation made by the Governor on January 7, 2025, or the federally-declared disaster, related to the Eaton Wildfire, Palisades Fire, and the Straight-line Winds.

14) Specifies that is an urgency measure and that its provisions are severable.

COMMENTS

1. Author's statement

According to the author:

> The Mortgage Forbearance Act provides essential relief to homeowners facing financial hardship due to the Los Angeles wildfires. By allowing up to 12 months of mortgage forbearance with no added fees, penalties, or interest, this legislation ensures that families have the time and flexibility to recover without the immediate threat of foreclosure.
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> Given the long-term nature of wildfire recovery, short-term assistance is insufficient. This act establishes clear, accessible relief, preventing financial ruin and stabilizing communities. Long term, uniform action is necessary to protect homeowners and mitigate the economic fallout of this disaster.

2. The Palisades and Eaton fires were two of the most destructive fires in California history

In early January 2025, extremely dry conditions and high winds in Los Angeles resulted in two of the most destructive wildfires in state history. The Palisades fire, which started on January 7th, burned a total of 23,448 acres and damaged or destroyed almost 8,000 structures in the Pacific Palisades and Topanga State Park area of west Los Angeles.[1] That same day, another major fire also broke out in the greater Los Angeles area: the Eaton fire. The Eaton fire consumed 14,021 acres and damaged or destroyed more than 10,000 structures, including significant portions of the city of Altadena.[2] About half of all properties in the Pacific Palisades and Altadena were destroyed by the Palisades and Eaton fires, and both fires together tragically took the lives of 29 civilians and injured a dozen firefighters. Real estate losses have been estimated to be as high as $30 billion, and just under 13,000 households were displaced by the Palisades and Eaton fires.[3] An estimated 9,592 single family homes and condominiums, 678 apartment units, 2,210 duplex and bungalow courts, and 373 mobilehomes were either heavily damaged or destroyed. Additionally, records show that about 770 rent-controlled units were destroyed in the Pacific Palisades. All told, the January wildfires in Los Angeles were some of the most tragic and destructive wildfires in state history.

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[1] CalFire, "Palisades Fire," (3/27/2025) https://www.fire.ca.gov/incidents/2025/1/7/palisades-fire.
[2] CalFire, "Eaton Fire," (3/04/2025) https://www.fire.ca.gov/incidents/2025/1/7/eaton-fire.
[3] Doug Smith and Sandhya Kambhampati, "Real Estate losses from fires may top $30 billion, from old mobile homes to $23-million mansions," Los Angeles Times (Feb. 21, 2025) https://www.latimes.com/california/story/2025-02-21/real-estate-losses-from-palisades-and-eaton-fires-top-30-billion#:~:text=Los%20Angeles%20Housing%20Department%20records,the%20city's%20rent%20stabilization%20ordinance.

Many homeowners were significantly affected by the wildfires, because their properties were covered by hazardous debris and ash, significantly damaged, or completely destroyed by the blazes. The wildfires also interrupted numerous businesses and many people's jobs. Homeowners whose homes were damaged or destroyed found themselves searching for temporary housing while they worked to rebuild or clean up their properties, all while still having mortgage payments due. At the same time, rents throughout the region spiked, as thousands were displaced and in need of temporary housing. Thus, many homeowners have experienced significant financial strain as a result of the fires, strain that likely put many at risk of default on their mortgages and foreclosure.

Recognizing this, the Newsom administration negotiated with major mortgage lenders to provide relief to homeowners impacted by the fires. An agreement was announced on January 18th in which the major lenders would provide victims of the LA wildfires 90-day forbearance periods for mortgage payments.[4] Forbearance is a process by which a borrower may temporarily pause making payments on their mortgage without being in default of their mortgage and risking foreclosure. While forbearance does excuse a borrower from paying off their mortgage for a period of time, it does not excuse them entirely from paying; they must still pay back the mortgage and make up for the forborne payments eventually. However, it does provide borrowers experiencing financial strain a temporary reprieve as they get on more stable financial footing.

As part of the Governor's agreement, lenders agreed to provide: a streamlined process for requesting forbearance; a variety of payment options at the end of the forbearance period, including ones that do not require paying all forborne payments immediately; relief from late fees during the forbearance period; protection from new foreclosure or eviction proceedings for at least 60 days; a pause in reporting late payments for the forborne amounts to credit reporting agencies; and an opportunity for borrowers to extend their periods of forbearance. However, many impacted homeowners' periods of forbearance are likely soon coming to an end, or have just recently ended, even when many may still be living in temporary housing and in the process of rebuilding.

3. Current mortgage options and forbearance for homeowners experiencing financial difficulties

All mortgages in the United States are either "federally-backed" mortgages, in which they are owned, insured, or guaranteed by an agency of the federal government, such as the Fair Housing Administration (FHA), or they are privately-backed mortgages. Of privately-backed mortgages, a majority are what are called "conforming mortgages," in which they are backed by a Government-Sponsored Enterprise (GSE) like Fannie Mae

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[4] Office of the Governor, "Governor Newsom announces commitments from major lenders to provide firestorm survivors with mortgage relief" (Jan. 18, 2025) https://www.gov.ca.gov/2025/01/18/governor-newsom-announces-commitments-from-major-lenders-to-provide-firestorm-survivors-with-mortgage-relief/.

or Freddie Mac. Fannie Mae and Freddie Mac historically were private companies that operated under government regulation as GSEs; however, after the 2008 financial crisis, both came under the control of the government.[5] A majority of mortgages in the United States are federally-backed mortgages or conforming mortgages.

Government-backed mortgages must follow the rules and requirements set by the agency that is backing the mortgage. Conforming loans backed by a GSE must follow specific guidelines established by the GSE for the servicing of the loan.[6] Under the servicing guidelines for Fannie Mae, mortgage servicers may provide a borrower with mortgage forbearance for six months, and for an additional six months after an initial forbearance, when they are experiencing temporary financial difficulties, but they are not required to do so. If a mortgage servicer of a conforming mortgage does provide forbearance, the servicing guidelines specify various requirements for this forbearance. For example, the mortgage servicer must counsel the borrower regarding their options and the availability of federal disaster relief that may be available when the forbearance is the result of a disaster. When forbearance is requested as a result of a disaster, the servicing guidelines authorize a mortgage servicer to provide forbearance periods of three months.

While forbearance under the servicing guidelines are permissive, the servicing guidelines do require that a mortgage servicer provide a borrower with disaster payment deferral when the borrower qualifies because they had financial hardship related to a disaster. However, deferral is different from forbearance; a deferral is typically a solution for when a borrower is coming out of forbearance, and can resume making mortgage payments, but cannot pay back the forborne amount. With payment deferral, the amount deferred is paid in a lump sum at the end of the mortgage, without accruing interest.

During the COVID-19 pandemic, the federal CARES Act (Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (Mar. 27, 2020) 134 Stat. 281, Section 4022(b)) provided owners of properties with four or fewer residential units that have federally-backed mortgages the ability to obtain forbearance. Unlike the GSE guidelines on forbearance, forbearance under the CARES Act was mandatory when requested by a borrower who qualified due to financial hardship related to the pandemic. The CARES Act provided for up to two six-month periods of forbearance, and prohibited interest, fees, and penalties from being charged beyond what would be able to be charged if the borrower was making full, timely payments under the mortgage contract.

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[5] Consumer Financial Protection Bureau, "What are Fannie Mae and Freddie Mac?" (Feb. 2, 2024), https://www.consumerfinance.gov/ask-cfpb/what-are-fannie-mae-and-freddie-mac-en-1959/.
[6] *See* Fannie Mae, *Servicing Guide: Fannie Mae Single Family* (Jun. 11, 2025), available at https://servicing-guide.fanniemae.com/.

4. <u>AB 238 proposes to help homeowners in need of forbearance on their mortgages</u>

AB 238 proposes a statutory program, titled the "Mortgage Forbearance Act," similar to that of the CARES Act. It would require that mortgage servicers provide borrowers who are experiencing financial hardship due to the Los Angeles wildfires three months of forbearance, with the possibility to renew the forbearance period for up to 12 months of total forbearance. However, AB 238 specifies that this 12-month period includes any forbearance that the borrower's mortgage servicer has already provided related to the Los Angeles wildfires. During the period of forbearance, the mortgage servicer would be prohibited from charging a borrower in forbearance late fees or the interest rate applicable to a mortgage that is in default. AB 238 also prohibits a mortgage servicer from initiating a foreclosure, obtaining a foreclosure judgment, or executing a foreclosure-related eviction or sale if the borrower is meeting the terms of the forbearance. AB 238 also specifies a process by which a borrower denied forbearance may cure a defect in their request, and requires that the mortgage servicer provide the borrower various notices, including a notice that the borrower is still required to repay the loan once forbearance ends. Once the forbearance period ends, AB 238 would prohibit a mortgage servicer from requiring that the borrower make a lump sum payment of the forborne payments at the end of the forbearance, if the borrower was current on their mortgage before entering forbearance.

AB 238 also includes provisions regarding mortgage servicers reporting forbearance to national credit reporting agencies. Typically, mortgage servicers report to credit reporting agencies the status of the mortgage and the borrower's compliance with the requirements of the mortgage, including whether the mortgage is in forbearance. While being in forbearance may not actually hurt an individual's credit score, it would still become a part of an individual's credit record and may nonetheless affect their ability to obtain loans or credit. Thus, AB 238 requires, for mortgages that are in disaster-related mortgage payment relief that were current prior to when it entered forbearance, and that are still performing as agreed under the forbearance, that the mortgage servicer suspend reporting delinquencies with the borrower's mortgage to consumer reporting agencies and not report the payment forbearance.

AB 238's provisions apply to all loans made on a property that contains four or fewer residential units and in which the borrower is a natural person. A borrower who is eligible must request forbearance by the earlier of: six months after the expiration of the state of emergency declared by the Governor regarding the Los Angeles wildfires, or January 7, 2027.

AB 238 has a few other relevant provisions. It limits liability for anyone who violates its provisions when, with respect to a federally-backed loan, compliance with the bill's provisions would conflict with the servicing guidelines applicable to the federally-backed loan. AB 238 provides the same limitation on liability for a violation of its provisions for non-federally-backed loans when compliance with the bill's provisions would conflict with the servicing guidelines issued by Fannie Mae and Freddie Mac. Lastly, AB 238 requires the Department of Financial Protection and Innovation to post various links and information on its website to help borrowers understand and access forbearance.

5. Amendments

The author has agreed to an amendment requested by bill opponents that would re-write the provisions of the bill related to mortgage servicers' obligations to report a borrower's payments to credit reporting agencies. The amendments would remove the requirement that mortgage servicers suspend reporting, and instead would require that mortgage servicers report borrowers in forbearance who were current with their mortgage when they entered into forbearance as current. These amendments will remove the concerns of opposition. A full mock-up of these amendments is attached at the end of this analysis.

6. Arguments in support

According to Los Angeles County, which supports AB 238:

> On January 7, 2025, the Los Angeles region experienced unprecedented wildfire and windstorm events, including the Palisades, Eaton, Hurst, and Hughes Fires, burning over 50,000 acres throughout the county. Many residents have since faced significant financial hardships that have jeopardized their housing stability.
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> AB 238 ensures critical support for affected homeowners by authorizing borrowers experiencing financial hardship due to the wildfire disaster to request forbearance from their mortgage servicers. The bill mandates an initial 90 days of forbearance, extendable in 90-day increments up to a maximum of 12 months, without fees, penalties, or additional interest. Crucially, it prohibits foreclosure-related actions during the forbearance period and ensures clear communication regarding repayment options.

7. Arguments in opposition

According to the California Data Industry Association, which is opposed to AB 238:

> AB 238 proposes to prohibit the reporting of missed payments resulting from wildfire, but this legislation addresses a problem that is already managed through existing credit reporting standards. The current credit reporting system includes the use of the "AW" disaster code, which signals to credit scoring models that a consumer has been impacted by a declared disaster. This code

adjusts the interpretation of the consumer's payment history in a way that prevents negative scoring consequences due to disaster-related forbearances. When furnishers apply the "AW" code appropriately, the consumer is not penalized by the credit score models for missed or delayed payments. Rather than omitting data from the credit file entirely, this approach ensures the continuity and accuracy of the consumer's credit history while also providing scoring models with the necessary context to adjust accordingly. Omitting this information can disrupt the integrity of the credit record and lead to unintended consequences, such as score drops due to a lack of usable historical data.

AB 238 also risks introducing significant inconsistency into the national credit reporting system. The bill deviates from the Metro 2® format, the industry standard used across the country for furnishing credit data. By requiring a state-specific deviation, AB 238 creates a fragmented reporting landscape that complicates compliance for furnishers and consumer reporting agencies (CRAs), many of which operate nationally.

National lenders depend on standardized, complete, and comparable data to make credit decisions. Inconsistent state-level mandates like AB 238 could lead to regulatory asymmetry and increase the likelihood of lending disparities or reduced access to credit for California residents.

Consumers are already protected under the Fair Credit Reporting Act (FCRA) and related industry guidance. The natural disaster reporting provisions embedded in the current Metro 2® format enable furnishers to provide accurate and contextualized data. Encouraging the continued and correct use of the "AW" disaster code is a more effective and less disruptive way to meet the bill's goals without introducing confusion or undermining credit file integrity.

SUPPORT

A New Way of Life Re-entry Project
California Apartment Association
California State Council of Service Employees International Union (SEIU California)
California-Hawaii State Conference of the NAACP
California Democratic Party Rural Caucus
City of Los Angeles
County of Los Angeles Board of Supervisors
Courage California
Smart Justice California, a Project of Tides Advocacy

OPPOSITION

California Data Industry Association

RELATED LEGISLATION

Pending Legislation: SB 610 (Pérez, 2025) requires, among other things, that the Commissioner of Financial Protection and Innovation of the Department of Financial Protection and Innovation to coordinate with mortgage lenders and servicers operating in the state to facilitate and monitor the implementation and promotion of mortgage forbearance, foreclosure prevention, and loss mitigation programs available to borrowers who experience a material decrease in household income or an increase in household expenses due to a wildfire, upon the declaration of a state of emergency due to wildfire. SB 610 is currently pending before the Assembly Housing and Community Development Committee.

Prior Legislation:

AB 3088 (Chiu, Ch. 37, Stats. 2020) enacted the COVID-19 Small Landlord and Homeowner Relief Act of 2020 that required a mortgage servicer to provide a specified notice to a borrower if the mortgage servicer denies forbearance when the borrower was otherwise current on their mortgage payments and was experiencing a financial hardship due to the COVID-19 pandemic.

AB 2501 (Limón, 2020) would have established the COVID-19 Homeowner, Tenant, and Consumer Relief Law of 2020 that, among other things, permitted a borrower on a residential mortgage who was experiencing financial hardship during the COVID-19 pandemic to request forbearance for six months, up to a total of 12 months. AB 2501 failed passage on the Assembly floor.

AB 1436 (Chiu, 2020) would have established, among other things, the Small Landlord and Homeowner Relief Act of 2020 to permit a borrower on a residential mortgage or mortgage on a mobilehome who was experiencing financial hardship during the COVID-19 pandemic to request forbearance for six months, up to a total of 360 days. AB 1436 died in the Senate Appropriations Committee.

PRIOR VOTES:

Senate Banking and Finance Committee (Ayes 7, Noes 0)
Assembly Floor (Ayes 70, Noes 0)
Assembly Appropriations Committee (Ayes 13, Noes 0)
Assembly Judiciary Committee (Ayes 11, Noes 0)
Assembly Banking and Finance Committee (Ayes 6, Noes 0)

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Amended Mock-up for 2025-2026 AB 238 (Harabedian)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Title 19.1 (commencing with Section 3273.20) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 19.1. Mortgage Forbearance Act

3273.20. This title is known, and may be cited, as the "Mortgage Forbearance Act."

3273.21. For purposes of this title, the following terms have the following meanings:

(a) (1) "Borrower" means a natural person who is a mortgagor or trustor, or a person who holds a power of attorney for a mortgagor or trustor.

(2) "Borrower" does not include an individual who has surrendered the secured property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, trustee, beneficiary, or authorized agent.

(3) "Borrower" does not include an individual who has a recorded notice of default recorded against the real property that is secured by the residential mortgage loan before the beginning of the wildfire disaster unless the notice of default was rescinded.

(b) "Federally backed loan" means a residential mortgage loan that is insured, guaranteed, purchased, or secured by a federal agency or government-sponsored entity.

(c) "Disaster-related forbearance relief" means the relief described in servicing guidelines for federally backed loans.

(d) (1) "Mortgage servicer" means a person or entity who directly services a loan or who is responsible for interacting with the borrower, managing the loan account on a daily basis, including collecting and crediting periodic loan payments, managing any escrow account, or enforcing the note and security instrument, either as the current owner of the promissory note or as the current owner's authorized agent.

(2) "Mortgage servicer" also means a subservicing agent to a master servicer by contract.

(3) "Mortgage servicer" does not include a trustee, or a trustee's authorized agent, acting under a power of sale pursuant to a deed of trust.

(e) "Residential mortgage loan" means a loan that is secured by residential real property improved by four or fewer residential units.

(f) "Wildfire disaster" means the conditions described in the proclamation of a state of emergency issued by Governor Gavin Newsom on January 7, 2025, or the federally declared disaster, declared on January 8, 2025, related to the Eaton Wildfire, the Palisades Fire, and the Straight-line Winds (DR-4856-CA).

3273.22. This title applies to a depository institution chartered under federal or state law, a person covered by the licensing requirements of Division 9 (commencing with Section 22000) or Division 20 (commencing with Section 50000) of the Financial Code, or a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code.

3273.23. (a) A borrower who is experiencing financial hardship that prevents the borrower from making timely payments on a residential mortgage loan due directly to the wildfire disaster may request forbearance on the residential mortgage loan by doing both of the following:

(1) Submitting a request to the borrower's mortgage loan servicer before the earlier of either of the following:

(A) Six months after the date upon which the state of emergency issued by Governor Gavin Newsom on January 7, 2025, is terminated.

(B) January 7, 2027.

(2) Affirming that the borrower is experiencing a financial hardship due to the wildfire disaster.

(b) Upon a request by a borrower for forbearance under subdivision (a), a mortgage servicer shall offer mortgage payment forbearance for a period of up to an initial 90 days, which shall be extended at the request of the borrower in 90-day increments, up to a maximum forbearance period of 12 months.

(c) The borrower shall be notified within 10 business days by the mortgage servicer whether their request for forbearance has been approved.

(d) If the mortgage servicer, acting under delegated authority to make forbearance determinations on behalf of the investor, denies a forbearance request within the maximum allowable forbearance period of 12 months pursuant to subdivision (b), the mortgage servicer shall not be in violation of this section if the mortgage servicer provides written notice to the borrower stating the specific reason for denial. The notice shall include both of the following:

(1) A clear and concise explanation of the specific investor provision that is the basis for the denial.

(2) The text of the specific investor guideline or contractual provision that is the basis for the denial of the borrower's forbearance request.

(e) If the written notice in subdivision (c) cites any defect in the borrower's request, including an incomplete application or missing information, that is curable, the mortgage servicer shall do all of the following:

(1) Specifically identify any curable defect in the written notice.

(2) Provide 21 calendar days from the mailing date of the written notice for the borrower to cure any identified defect.

(3) Accept the borrower's revised request for forbearance before the 21-day period described in paragraph (2) lapses.

(4) Respond to the borrower's revised request within five business days of receipt of the revised request.

(f) The forbearance period required by subdivision (b) shall include any period of forbearance related to the wildfire disaster that a mortgage servicer has provided to a borrower before the effective date of this title.

(g) During the period of forbearance required by this section, no late fees shall be assessed to the borrower's account and the borrower shall not be charged a default rate of interest.

(h) No later than 30 calendar days before the end of an initial forbearance period, a mortgage servicer shall provide written notice to the borrower disclosing both of the following:

(1) Any documentation or forms that the mortgage servicer requires the borrower to furnish or complete to be considered for an additional period of forbearance.

(2) A description of the deadlines and timelines associated with considering the borrower for an additional period of forbearance.

(i) A mortgage servicer shall report the credit obligations of borrowers under a disaster-related forbearance plan in compliance with the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.). For accounts granted disaster-related mortgage payment relief under this title, a mortgage servicer shall not furnish information during the forbearance period indicating that the payments are in forbearance, and must:

(1) report the credit obligation or account as current; or
(2) if a borrower was delinquent before the disaster-related forbearance plan:
(A) maintain the delinquent status during the period in which the plan is in effect; and
(B) if the consumer brings the account current during the forbearance period, report the account as current.
~~(i) A mortgage servicer shall report the credit obligations of borrowers under a disaster-related forbearance plan in compliance with the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.) and applicable federal guidelines. For accounts granted disaster-related mortgage payment relief that were current when the borrower entered forbearance, and that are otherwise performing as agreed, a mortgage servicer shall suspend reporting delinquencies to consumer reporting agencies and shall not furnish information regarding payment forbearance to consumer reporting agencies.~~

3273.24. (a) A mortgage servicer shall disclose to a borrower to whom a forbearance has been granted pursuant to Section 3273.23 that the forborne mortgage payments are required to be repaid.

(b) The disclosure required by subdivision (a) is only required to be furnished to the borrower once at the beginning of the forbearance period.

(c) A lump sum payment shall not be required for a borrower who was current on the residential mortgage loan when the borrower entered forbearance.

3273.25 During the time of forbearance granted pursuant to this title, a mortgage servicer shall not initiate any judicial or nonjudicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale if the borrower is performing pursuant to the terms of the forbearance.

3273.26. Failure to comply with this title shall not affect the validity of a trustee's sale or a sale to a bona fide purchaser for value.

3273.27. (a) (1) With respect to a federally backed loan, a person shall not be held liable for a violation of this title if compliance with this title conflicts with the servicing guidelines applicable to the federally backed loan.

(2) Servicing guidelines applicable to a federally backed loan includes servicing guidelines like those issued by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), the Single Family Housing Policy Handbook issued by the Federal Housing Administration of the United States Department of Housing and Urban Development, the VA Servicer Handbook issued by the United States Department of Veterans Affairs, or a servicing handbook issued by the Rural Development division of the United States Department of Agriculture, as those guidelines existed on January 13, 2025.

(b) With respect to a residential mortgage loan that is not a federally backed loan, a person shall not be held liable for a violation of this title if compliance with this title conflicts with the servicing guidelines issued by Fannie Mae or Freddie Mac.

(c) For purposes of this section, "conflicts with" means that it is impossible to comply with this title and the person's obligation under the applicable servicing guidelines.

3273.28. The Department of Financial Protection and Innovation shall post all of the following on its website:

(a) Links to the provisions of servicing guidelines pertaining to disaster-related forbearance relief for federally backed loans.

(b) A summary of Fannie Mae and Freddie Mac guidance to assist borrowers in understanding their forbearance programs.

(c) A dedicated telephone number for borrowers seeking assistance.

3273.29. It is the intent of the Legislature that a mortgage servicer offer a borrower forbearance that is consistent with the mortgage servicer's contractual or other authority. Nothing in this title requires a mortgage servicer to take any action that would require the mortgage servicer to breach the terms of an existing contract with the investor that owns the residential mortgage loan.

3273.30. The provisions of this title are severable. If any provision of this title or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To avert economic and social harm by providing a structure for temporary relief to financially distressed borrowers during conditions of extreme peril to the safety of persons and property that exist due to impacts of the Eaton Fire, the Palisades Fire, and the windstorm, it is necessary that this act take effect immediately.