

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

AB 1842 (Harabedian)
Version: June 22, 2026
Hearing Date: June 30, 2026
Fiscal: Yes
Urgency: No
ID

SUBJECT

California Emergency Mortgage Relief Act

DIGEST

This bill permits a borrower of a loan secured by residential real property of four or fewer residential units to request and extend mortgage forbearance for up to 12 months of total forbearance, as specified, when the borrower's real property has become uninhabitable as a direct result of a federally-declared disaster, 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. To provide homeowners affected by the fires relief, the Legislature passed AB 238 (Harabedian, Ch. 547, Stats. 2025) to permit homeowners of properties with four or fewer residential units to request, and required mortgage servicers to provide, mortgage payment forbearance for an initial 90-day period, and for additional 90-day periods up to a maximum of 12 months of forbearance. However, AB 238 applied only to victims of the Eaton and Palisades fires. AB 1842 mirrors AB 238's process to provide forbearance for borrowers for residential properties of four or fewer residential units when their residence has become uninhabitable due to a federally-declared disaster. It specifies that this forbearance will be for an initial period of 180 days, to be extended upon request of the borrower in 90-day periods, for a maximum forbearance period of 12 months.

AB 1842 is author-sponsored, and is supported by the Consumer Attorneys of California, Consumer Watchdog, the City of Los Angeles, East Bay Housing Organizations, SEIU California, and others. It is opposed by the California Association of Realtors, the California Bankers Association, the California Chamber of Commerce, and a number of other banking organizations. It previously passed 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 a “trustee’s sale”). (Civ. Code §§ 2924g & 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) & 2923.55(b)(2).)
- 3) Prohibits a mortgage servicer from taking specified acts related to foreclosure while a borrower’s application for a loan modification is pending. (Civ. Code § 2924.11.)
- 4) 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, and requires their mortgage servicer to provide mortgage forbearance upon this request, as specified. Specifies that this forbearance period 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. (Civ. Code § 3273.23.)
- 5) 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. (Civ. Code § 3273.23(a).)

This bill:

- 1) Defines, for the purposes of its provisions:
 - a) “borrower” to mean a natural person who is a mortgagor or trustor or a person who holds a power of attorney for a mortgagor or trustor, but does not include:
 - i. An individual who has surrendered the secured property, as specified;

- ii. An individual who has a notice of default recorded against the real property that is secured by the residential mortgage loan before issuance of a declaration of a disaster, unless the notice of default was rescinded;
 - iii. An individual who was delinquent in satisfying a credit obligation or account for a period of more than 90 days immediately before a declaration of a disaster; or an
 - iv. An individual against whom an unrescinded notice of default was recorded within 90 days of a declaration of disaster;
 - b) "emergency disaster" to mean the conditions described in a declaration of a disaster issued by the federal government;
 - c) "disaster-related forbearance relief" to mean the relief described in servicing guidelines for federally backed loans;
 - d) "federally backed loan" to mean a residential mortgage loan that is insured, guaranteed, purchased, or secured by a federal agency or government-sponsored entity;
 - e) "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 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, and to also mean a subservicing agent to a master servicer by contract;
 - i. Specifies that "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; and
 - f) "Residential mortgage loan" to mean a loan that is secured by residential real property improved by four or fewer residential units.
- 2) Specifies that its provisions apply to a depository institution chartered under federal or state law, or a person licensed as a finance lender, broker, or program administrator, or a person licensed as a real estate agent, as specified.
- 3) Permits a borrower to request forbearance on a residential mortgage loan secured by residential real property that has become uninhabitable due to an emergency by:
- a) submitting a request to the borrower's mortgage servicer within six months after the date upon which a declaration of a disaster was issued by the federal government; and
 - b) affirming that a residential unit is uninhabitable as a direct result of an emergency.
- 4) Requires a mortgage servicer, upon a request from a borrower pursuant to (3), above, to offer mortgage payment forbearance for a period of up to an initial 180 days, which shall be extended at the request of the borrower in 90-day increments,

up to a maximum forbearance period of 12 months, which shall include any period of forbearance related to the disaster provided before the date upon which a declaration of a disaster was issued by the federal government.

- 5) Requires the mortgage servicer to notify the borrower within 10 business days whether the forbearance request is approved and, if approved, provide information about all potential repayment plans that may be used.
- 6) Provides that a mortgage servicer, if acting under delegated authority to make forbearance determinations on behalf of the investor, is not in violation of (4), above, if the mortgage servicer denies a forbearance request and provides written notice to the borrower stating the specific reason for denial, as specified.
- 7) Provides a specified process for a borrower to cure a defect in the borrower's forbearance request.
- 8) Prohibits a mortgage servicer from committing the following acts:
 - a) assessing any late fees or charging a default rate of interest during the forbearance period;
 - b) for accounts granted disaster-related mortgage payment relief, furnishing information during the forbearance period indicating that the payments are in forbearance; or
 - c) initiating any judicial or nonjudicial foreclosure process, moving for a foreclosure judgment or order of sale, or executing a foreclosure-related eviction or foreclosure sale during the time of forbearance, if the borrower is performing pursuant to the terms of the forbearance.
- 9) Requires the mortgage servicer, to the extent consistent with a mortgage servicer's contractual authority, to offer the borrower at the end of the borrower's forbearance period at least one post-forbearance home retention option that does not, prior to satisfaction of the mortgage loan, do either of the following:
 - a) require the borrower to repay the arrearages resulting from the forbearance all at once in a lump sum; or
 - b) increase in any month the borrower's pre-forbearance monthly principal and interest payment other than as a result of an adjustment of the applicable index pursuant to the terms of an adjustable rate mortgage.
- 10) Requires a mortgage servicer to do the following:
 - a) Disclose to a borrower, only once at the beginning of the forbearance period, that forborne mortgage payments must be repaid; and
 - b) Provide written notice to the borrower, no later than 30 days before the end of an initial forbearance period, disclosing any documentation or forms the mortgage servicer requires the borrower to furnish to be considered for an additional

period of forbearance, and a description of the deadlines and timelines associated with considering an additional period of forbearance.

- 11) Provides that failure to comply with the provisions of this bill shall not affect the validity of a trustee's sale or a sale to a bona fide purchaser of value.
- 12) Provides that a person shall not be held liable for a violation of a provision of this bill if compliance with such a provision conflicts with specified servicing guidelines.
- 13) Permits the Attorney General, a district attorney, or a county counsel to bring a civil action to enforce the provisions of the act.
- 14) Requires the Department of Financial Protection and Innovation (DFPI) to post all of the following information 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.
- 15) Declares that 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 and that this act does not apply to servicing guidelines that are unrelated to emergency-related forbearance relief. Provides that nothing in this bill 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 or insures the residential mortgage loan.

COMMENTS

1. Author's statement

In support of this measure, the author states:

AB 1842 establishes a statewide mortgage forbearance program for homeowners whose primary residences are rendered uninhabitable due to a declared emergency. The bill allows eligible borrowers to pause mortgage payments for up to 12 months without late fees, foreclosure, negative credit reporting, or a lump-sum repayment requirement.

2. The Palisades and Eaton fires devastated thousands of homeowners

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. Collectively,

the fires burned 37,469 acres and damaged or destroyed almost 18,000 structures.¹ 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.² 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.

3. AB 238 provided forbearance relief for victims of the fires

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 Legislature passed AB 238 (Harabedian, Ch. 128, Stats. 2025). AB 238 required mortgage servicers to 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. AB 238 included in this 12-month period any forbearance that the borrower's mortgage servicer has already provided related to the LA wildfires.

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.

¹ CalFire, "Palisades Fire," (3/27/2025) <https://www.fire.ca.gov/incidents/2025/1/7/palisades-fire>; CalFire, "Eaton Fire," (3/04/2025) <https://www.fire.ca.gov/incidents/2025/1/7/eaton-fire>.

² 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>.

During the period of forbearance, AB 238 prohibited a mortgage servicer from charging a borrower forbearance late fees or the interest rate applicable to a mortgage that is in default. It also prohibited 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.

If the mortgage servicer denied the forbearance request, AB 238 provided a process by which the borrower may cure a defect in their request for forbearance, and required 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 prohibited 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.

4. AB 1842 creates a forbearance program for other federally-declared disasters

Yet AB 238's forbearance program was limited to victims of the Eaton and Palisades fires. While the Eaton and Palisades fires were some of the most destructive and costly wildfires in state history, they will likely not be the last. The occurrence of major wildfires has increased in the state in the last decade, in no small part due to the devastating impacts climate change is having on California's environment. In addition, other major disasters, such as floods, are also becoming increasingly common due to climate change. The increasing prevalence of wildfires and other disasters will mean more Californians will likely face the dire financial strains currently faced by victims of the Eaton and Palisades fires, and be in need of mortgage forbearance on their home mortgages while they rebuild.

AB 1842 aims to provide a similar program to that created by AB 238 for future disasters that make a homeowner's home uninhabitable. It permits a borrower to request forbearance on a residential mortgage on real property of one to four residential units when a residential unit on the property has become uninhabitable as a result of a federally-declared disaster, and requires the mortgage servicer to grant forbearance for up to 180 days. It also requires this initial forbearance to be extended in 90-day increments up to a total forbearance period of 12 months. This forbearance period includes any period of forbearance the mortgage servicer has already been provided to the borrower before the disaster.

To obtain forbearance, AB 1842 requires that a borrower submit a request to their mortgage servicer within six months of the issued disaster declaration and affirm that their residential unit is uninhabitable as a direct result of the disaster. The mortgage servicer must then notify the borrower within 10 business days whether the forbearance request is approved, and if it is denied, provide a reason for the denial and the text of the specific investor guideline or contractual provision that is the basis for the denial. If

the reason for the denial is curable, the mortgage servicer must identify the curable defect and provide the borrower with 21 days to cure the defect.

During the period of forbearance, AB 1842 would prohibit the mortgage servicer from imposing any late fee or charging any default interest rate. The mortgage servicer also would be prohibited from initiating or proceeding with any foreclosure process upon the borrower during the forbearance if the borrower is performing pursuant to the terms of the forbearance.

AB 1842 also includes a number of protections for borrowers once the forbearance period ends. It requires that the mortgage servicer provide the borrower a notice at least 30 days before the end of the forbearance that discloses any documentation or forms required to be considered for an additional period of forbearance, and the deadlines and timelines associated with requesting additional forbearance. At the end of the borrower's forbearance period, AB 1842 would require that the mortgage servicer, to the extent consistent with its contractual authority, offer the borrower at least one post-forbearance home retention option that does not require the borrower to repay the arrearages from the forbearance all at once or increase in any month the borrower's pre-forbearance monthly principal and interest payment, other than an adjustment of the applicable index of an adjustable rate mortgage.

AB 1842 also includes a number of provisions limiting a mortgage servicer's liability for failing to comply with these requirements. They specify that a mortgage servicer of a federally backed loan shall not be held liable for a violation of the bill's requirements if compliance with those requirements conflicts with the servicing guidelines applicable to the federally backed loan. For a residential mortgage loan that is not federally backed, a mortgage servicer may not be held liable for a violation of the bill's requirements if compliance conflicts with the servicing guidelines issued by Fannie Mae or Freddie Mac. AB 1842 ensures compliance with its requirements by empowering the Attorney General, a district attorney, or a county counsel with the authority to bring a civil action for a violation of the bill's requirements.

5. The Limitations on restricting federally-backed mortgage lenders

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 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.³ 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.⁴ 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.

6. Considerations

The Supremacy Clause of the U.S. Constitution provides that federal law is “the supreme law of the land.” (U.S. Const., Art. VI, § 2.) State law is generally preempted by federal law under the Supremacy Clause if: there is an explicit statement within the federal law that state laws in the area are preempted; if the state law conflicts with the federal law; or if Congress legislated in such a comprehensive way as to occupy the entire field of law. Banks in the United States are generally comprehensively regulated by a number of federal laws and agencies, including the National Bank Act of 1863, the Federal Insurance Deposit Act, and the Dodd Frank Act of 2008, and the regulations set by the GSEs Fannie Mae and Freddie Mac. Because of this comprehensive regulation, state laws that regulate banks or mortgage lenders may risk being preempted under the Supremacy Clause. In addition, a seminal case found that state laws regarding national banks are preempted if they “prevent or significantly interfere” with a national bank’s

³ 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/>.

⁴ See Fannie Mae, *Servicing Guide: Fannie Mae Single Family* (Jun. 11, 2025), available at <https://servicing-guide.fanniemae.com/>.

exercise of its lawful powers. (*Barnett Bank of Marion County, N.A., v. Nelson* (1996) 517 U.S. 25.)

Under the Supremacy Clause and the extensive federal regulation of the banking industry, state laws must be careful not to conflict with federal law or interfere with a national bank's otherwise lawful powers. This makes regulating in the banking space difficult for the state. Thus, AB 1842 includes language in a variety of its provisions that permit exceptions to its requirements where federal law or regulations conflict with AB 1842's requirements. Additionally, AB 1842 makes its forbearance available upon a *federally-declared* emergency, and not a state-declared emergency, recognizing that federal regulations only deal with federally-declared emergencies. AB 1842 strikes this balance in order to provide Californians with additional protections and forbearance, while ensuring it does not conflict with federal regulations or requirements. Nonetheless, given the extensive federal regulation and administrative oversight in the banking industry, it is uncertain that AB 1842 is immune to claims of federal preemption. Where its requirements and those of the federal servicing guidelines or the various federal banking laws possibly conflict, there is a risk that AB 1842's provisions could be found to be preempted by federal law or regulation.

7. Arguments in support

According to Los Angeles Mayor Karen Bass, who supports AB 1842:

Los Angeles is on the frontlines of the climate crisis, frequently experiencing emergencies like wildfires and extreme storms. When disaster strikes, families face the devastating reality of losing their homes or having them rendered uninhabitable. AB 1842 provides relief by requiring mortgage servicers to offer an initial 180-day forbearance period, extendible up to 12 months, for impacted homeowners. Furthermore, it protects vulnerable residents from financial ruin by prohibiting mortgage servicers from assessing late fees or charging a rate of interest during this period.

AB 1842 also takes steps to safeguard residents' financial futures. By requiring servicers to report accounts under emergency-relief forbearance as current, prohibiting servicers from initiating foreclosures while the borrower is performing under the terms of the forbearance, and preventing lump-sum repayment requirements for borrowers who were current prior to the emergency, this bill ensures that utilizing forbearance does not destroy a homeowner's credit.

8. Opposition

Previous opposition to this bill has removed its opposition following amendments to AB 1842 that were taken in the Senate Banking and Financial Institutions Committee.

SUPPORT

American Federation of State, County and Municipal Employees, AFL-CIO
California Community Foundation
Center for Responsible Lending
Consumer Attorneys of California
Consumer Watchdog
East Bay Housing Organizations
Office of Los Angeles Mayor Karen Bass
SEIU California

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 1847 (Harabedian, 2026) extends to January 7, 2029, the period by which a homeowner may request forbearance from their mortgage servicer for hardship due to the 2025 Los Angeles wildfires, and increases from 12 to 24 months the maximum allowable forbearance period.

Prior Legislation:

SB 610 (Pérez, Ch. 547, Stats. 2025) required, 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.

AB 238 (Harabedian, Ch. 128, Stats. 2025). *See Comment 3.*

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 Financial Institutions Committee (Ayes 7, Noes 0)

Assembly Floor (Ayes 58, Noes 14)

Assembly Appropriations Committee (Ayes 11, Noes 2)

Assembly Judiciary Committee (Ayes 9, Noes 2)

Assembly Banking and Finance Committee (Ayes 7, Noes 0)
