

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

SB 1079 (Skinner)
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Fiscal: Yes
Urgency: No
TSG

SUBJECT

Residential property warehousing

DIGEST

This bill proposes a series of measures intended to mitigate against blight, vacancy, and the transfer of residential property ownership from owner-occupants to landlord investors in the event that California experiences a wave of foreclosures.

EXECUTIVE SUMMARY

The last foreclosure crisis, which took place between roughly 2007 and 2010, changed many California communities profoundly. Investors, seeing an opportunity to purchase a large volume of residential housing at a significant discount, bought up homes and entered the residential rental business. The number of owner-occupants declined, replaced by tenants. At the same time, the rapid turnover in ownership left many properties vacant and, in some instances, unmaintained. This bill is designed to try to prevent similar things from occurring in the event that a new wave of foreclosures strikes California, as now seems possible as a result of the COVID-19 pandemic. The bill employs three strategies to try to achieve that aim: (1) it creates a window of opportunity, modeled after the federal "First Look" program, for public entities and prospective owner-occupants to purchase foreclosed homes ahead of investors; (2) it modifies the rules governing trustee sales to make high-volume purchasing of foreclosed homes more difficult; and (3) it raises the potential amount that local entities can fine the purchasers of foreclosed homes if they leave those properties vacant and unmaintained.

The bill is author-sponsored. Support is from equity and affordable housing advocates. Opposition comes from landlord trade associations.

NOTE REGARDING INPUT FROM OTHER SENATE POLICY COMMITTEES

Due to the COVID-19 Pandemic and the unprecedented nature of the 2020 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than one committee, as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the Senate Committee on Governance and Finance and the Senate Committee on Housing.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Sets forth non-judicial procedures through which a lender may foreclose upon the property securing the loan and, through the power of sale contained in any deed of trust or mortgage, force sale of the property at auction. (Civ. Code §§ 2920-2944.10.)
- 2) Specifies that all sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where the property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday. (Civ. Code § 2924g.)
- 3) Sets forth judicial procedures through which a mortgage lender may foreclose upon the property securing the loan and force its sale. (Code Civ. Proc. §§ 725a-730.5.)
- 4) States that government entities may fine the legal owner of a property purchased at a foreclosure sale, or acquired through foreclosure under a mortgage or deed of trust up to \$1,000 per day for failure to maintain that property. (Civ. Code § 2929.3)

This bill:

- 1) Provides that, notwithstanding any other law, a sale of property under the power of sale contained in any deed of trust or mortgage shall be subject to the following restrictions:
 - a) a purchaser shall not be permitted to buy more than three properties at any auction regardless of the seller of the property; and
 - b) a seller shall not bundle properties for the purpose of sale. Each property shall be bid on separately.
- 2) Raises to \$10,000 per day the maximum daily fine that a government entity is authorized to impose on a legal owner of vacant residential property purchased through foreclosure for failure to maintain that property.

- 3) Defines “owner-occupants” to mean buyers who will occupy the property as their principal residence within 60 days of closing and will maintain their occupancy for at least one year.
- 4) Defines “public entity” to mean the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, including, but not limited to, a community land trust or a nonprofit entity providing affordable housing.
- 5) Requires a lender that has foreclosed on a residential real property through the judicial foreclosure process to first offer the property for sale to individuals who will be owner-occupants of the home, or to a public entity that is utilizing public funds to purchase the property, for the first 20 days the property is listed on the market, after which any person may submit an offer to purchase the property and these offers shall be considered along with the offers submitted during the first 20-day listing period.
- 6) Directs the Department of Housing and Community Development to establish a process whereby a city, county, community land trust, or housing sponsor may register with the department in order to receive specified notifications regarding upcoming foreclosure sales of residential real property.

COMMENTS

1. Background

The economic fallout from the COVID-19 pandemic has resulted in widespread job loss and financial distress. This raises the prospect that many California homeowners will soon default on their mortgage payments and a wave of home foreclosures could follow. This bill draws upon lessons learned from what happened in California’s last foreclosure crisis and proposes a trio of mechanisms to try to prevent them from recurring in the event that another wave of foreclosures does hit the state.

The last foreclosure crisis in California struck roughly in the period 2007-2010. Three impacts of that crisis are particularly significant to this bill. First and foremost, the last foreclosure crisis led to a significant decline in homeownership rates. According to the Public Policy Institute of California (PPIC), between 2006 and 2012, the number of owner-occupied housing units in California declined by more than 320,000, while the number of renter-occupied housing units increased by more than 720,000.¹

A major factor contributing to this transformation was the entry of institutional investors into the rental market. The quintessential example is Blackstone, an

¹ Johnson and Cuellar Mejia, *The Decline of the Homeowner* (Aug. 19, 2014) Public Policy Institute of California <https://www.ppic.org/blog/the-decline-of-the-homeowner/> (as of May 19, 2020).

investment firm which is reported to have seized on the relatively cheap price of residential property in depths of the foreclosure crisis to acquire and rent out as many as 13,000 homes in California. Only once the crisis subsided and institutional investors could no longer obtain properties so easily at foreclosure sales did homeownership rates begin to recover.²

The second problem emanating from the last foreclosure crisis was a spate of vacant residential properties. A study of the relationship between foreclosures and residential vacancies conducted shortly after the worst of the last foreclosure crisis found that:

At six months after a sheriff's sale, a third of foreclosed homes are in an extended period of vacancy. The occupancy of foreclosed homes climbs between seven and 15 months after the sheriff's sale, but it plateaus after that. In any month from two to five years after the sale, foreclosed homes are two to four times more likely to be vacant than those sold through ordinary transactions.³

Residential vacancies detract from the health of a neighborhood by decreasing the available housing stock and depressing property values. As the recent takeover of a vacant, corporately-owned home in Oakland, California by a group of homeless mothers poignantly demonstrated, residential vacancies are also particularly jarring when juxtaposed with high rates of homelessness.⁴

The third and related problem that came out of the last foreclosure crisis was a rise in unmaintained properties, causing community blight, and driving adjacent property values down further still. As a Los Angeles Times story written during the crisis described it, "[h]ouses abandoned to foreclosure are beginning to breed trouble, adding neighbors to the growing ranks of victims." The article observed how:

Stagnant swimming pools spawn mosquitoes, which can carry the potentially deadly West Nile virus. Empty rooms lure squatters and vandals. And brown lawns and dead vegetation are creating eyesores in well-tended neighborhoods.⁵

² Levin, Data Dig: Big Investment Firms Have Stopped Gobbling Up California Homes (Apr. 4, 2018) CalMatters <https://calmatters.org/housing/2018/04/data-dig-big-investment-firms-have-stopped-gobbling-up-california-homes/> (as of May 19, 2020).

³ Whitaker, *Foreclosure-Related Vacancy Rates* (Jul. 26, 2011) Federal Reserve Bank of Cleveland <https://www.clevelandfed.org/newsroom-and-events/publications/economic-commentary/economic-commentary-archives/2011-economic-commentaries/ec-201112-foreclosure-related-vacancy-rates.aspx> (as of May 19, 2020).

⁴ Cowan and Dougherty, *Homeless Mothers Are Removed From an Oakland House* (Jan. 15, 2020) New York Times <https://www.nytimes.com/2020/01/15/us/oakland-homeless-eviction.html> (as of May 19, 2020).

⁵ Streitfeld, *Blight Moves In After Foreclosures*, Los Angeles Times <http://www.latimes.com/la-fi-vacant28aug28-story.html> (as of May 19, 2020).

Believing the replacement of homeownership with investor owned rentals, prolonged vacancies, and unmaintained residential properties all to be problematic, the author of this bill intends it to fortify California against a repeat of these outcomes in the event that another foreclosure crisis hits the state. The bill employs three distinct strategies to try to achieve this aim. Each strategy is discussed individually in the Comments that follow.

2. Establishing a window of opportunity for public entities and prospective owner-occupants to purchase foreclosed residential properties

This first component of the bill is modeled on an existing federal initiative known as the “First Look” program. The “First Look” program creates a 20-day window after a real estate owned property first comes on the market during which only prospective owner occupants may make offers. Investors therefore have to wait until after owner-occupants have had a first shot at securing the property before the investors can try to acquire it for themselves. The idea, according to Fannie Mae’s materials about the program, is to “promote homeownership and contribute to neighborhood stabilization” by “allowing homebuyers to negotiate and purchase foreclosed properties before they are made available to investors.”⁶

Much like the First Look program, the bill proposes to require lenders to offer foreclosed-upon residential properties for sale only to prospective owner occupants for the first 20 days that the properties are on the market. Unlike the First Look program, however, under this bill, “public entities” including government agencies, community land trusts, and non-profit affordable housing organizations could also make offers during the exclusive 20-day window, if they will be using public funds to make the purchase. In this way, the bill prioritizes moving foreclosed properties either back into homeownership or into use as community-owned housing.

In correspondence to the Committee, the California Association of Realtors writes approvingly of the “First Look” program and states that it would support the bill’s proposed adoption of such a program in California, but only if limited to apply to those real estate owned properties that are backed by a Government Sponsored Entity such as FHA, Fannie Mae, and Freddie Mac.

It is possible to question how much impact the bill would have as currently drafted. In the version in print, the bill would apply its modified First Look model to residential properties emerging for sale out of the *judicial* foreclosure process only. Since the overwhelming majority of California foreclosures take place through the *non-judicial* foreclosure process, the current version of the bill would only apply to an extremely limited number of properties. The author therefore proposes to offer amendments in

⁶ *Find a Home During First Look*, Fannie Mae <https://www.homepath.com/firstlook-program.html> (as of May 19, 2020).

Committee that would adapt and extend the bill's modified First Look concept to the non-judicial foreclosure process as well.

Existing law already permits the trustee overseeing the non-judicial sale of a property to receive purchase offers in the 10 days leading up to the noticed sale at auction. If both the lender and the borrower who was foreclosed-upon agree to accept one of those offers, the trustee sale is postponed in order to let the agreed upon transaction proceed. (Civ. Code § 2924f(c)(4).) In much the same way, under the proposed amendment, the trustee would be obligated to receive offers from prospective owner occupants and from public entities in the 20 days leading up to the noticed sale at auction as well. In this way, the modified First Look program would be replicated in the non-judicial foreclosure context.

Conceptually, at least, this amendment makes sense and should act to greatly increase the impact of the bill. However, the non-judicial foreclosure process is complex and further vetting will be needed to determine whether and exactly how the proposed amendment would work in practice. Assuming that the bill passes out of Committee, therefore, the author may wish to consult with lenders, trustees, realtors, and community housing providers on further refinements to this new aspect of the bill.

A promising and possibly simpler alternative approach to applying the modified First Look program to sales of homes emerging from the non-judicial foreclosure would be to move the 20-day exclusive offer window until after the trustee sale. Under this alternative, if the foreclosing entity elects to retain the property and sell it on the open market, then that foreclosing entity would be limited to taking offers from prospective owner-occupants and public entities for the first 20 days. Utilizing this approach would result in a smaller pool of foreclosed homes passing through the modified First Look program, because many of the properties will be sold at the trustee auction. However, because this approach avoids meddling in the non-judicial foreclosure process itself, it might be simpler to implement.

3. Speed bumps to slow high volume purchase of foreclosed homes by large investors

The second component of the bill seeks to reduce the rate and volume at which large institutional investors could purchase residential properties in the event of a new foreclosure crisis. This component consists of two different pieces, both related to what happens during the trustee sale at which foreclosed properties are auctioned off.

First, the bill would prohibit the practice of bundling foreclosed homes for sale as a single item. According to the author, such bundling facilitates high volume acquisition by large investors. Not only do a large number of homes go to a single buyer all at once; small investors are also less able to compete because the prices are so much higher. And such bundled sales make no sense at all for prospective owner-occupants, who are looking for a home, not a portfolio of properties. Second, the bill would place a cap on

the number of properties that a purchaser could buy at a single trustee sale auction. The idea is to slow the rate at which any one investor could accumulate properties, thus making the sort of consolidation seen during the last foreclosure crisis less likely.

Opponents to the bill highlight that the purpose behind conducting a trustee sale auction is to obtain the highest possible price for the property, both so that the lender has the best possible chance of recouping its money and so that the foreclosed-upon borrower has the best possible chance of getting back any surplus. They point out that if an auction participant reaches their maximum permissible number of purchases under the bill, that participant will not be able to bid on any further properties, thus lowering the competition and, ultimately, the price that can be obtained. Similarly, it can be argued that bundling properties together at auction helps raise the price that can be obtained for certain less desirable properties, by mixing the less marketable properties in with others.

The opposition also wonders whether the trustee sale modifications proposed by the bill would actually result in greater homeownership rates. Properties purchased at a trustee sale come “as is,” may come with liens that the purchaser is obligated to clear, and the sales price generally must be paid on the spot. Trustee sales are not generally a very attractive or viable way for owner-occupants to purchase a home, therefore. As a result, the trustee sale modifications proposed by the bill might only serve to diversify which investors get the properties, rather than aiding prospective homeowners.

4. Raising potential fines for leaving properties vacant and unmaintained in the wake of foreclosure sales

Existing law states that the legal owner of vacant residential property purchased at a foreclosure sale, or acquired through foreclosure under a mortgage or deed of trust has a duty to maintain that property. (Civ. Code § 2929.3(a).) Failure to maintain a property, which includes failing to care for the exterior of the property, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water, or other conditions that create a public nuisance, carries with it the possibility of a daily \$1,000 fine. (Civ. Code § 2929.3(b).)

The third component of this bill would increase that potential fine to a maximum of \$10,000 per day. Most obviously, raising the fine would help to achieve the bill’s intent to mitigate the spread of community blight in the event of another foreclosure crisis. More subtly, however, the raising the potential fine might also serve the bill’s goal of reducing the number of vacant properties in the wake of foreclosure. Since the potential fine applies only to *vacant* properties that are left unmaintained, increasing the fine might lead property owners to be extra diligent about upkeep, but might also lead them simply to move someone in as soon as possible.

The proposed new amount of the fine is hefty. Opponents of this aspect of the bill point out that the fines could quickly add up to exceed the value of the property. On the other hand, the \$10,000 daily fine is the absolute maximum authorized by the bill. In practice, many fines might be considerably less. Still, the opponents question whether there is any evidence that additional deterrence is needed.

5. Additional information from the Senate Governance and Finance Committee

“The Senate Governance and Finance Committee is responsible for hearing legislation pertaining to local government. A previous version of the bill made changes to local government responsibilities. The current version of the bill increases the maximum fine a governmental entity, including a local government, can impose on a legal owner for unmaintained and vacant residential property, but does not substantially change the responsibilities of local governments.”

6. Additional information from the Senate Housing Committee

“The Senate Housing Committee considers production and preservation of housing a top priority for the Legislature. This bill aims to help maximize the state’s supply of single-family homes by making it easier for public entities and prospective owner-occupants to purchase foreclosed homes, in response to the current practice of large investors buying these properties in bulk and then often letting them sit vacant. The Committee notes that while this bill requires HCD to create a list and distribute information regarding foreclosures for those who request to be on a list, it appears that the requirement for sellers to notify HCD of foreclosure sales was inadvertently deleted. Moving forward, the author may wish to address this oversight.”

7. Proposed amendments

In order to address the issues set forth in the Comments, above, the author proposes to incorporate amendments into the bill that would, among other things:

- take the bill’s “first look” provisions for the judicial foreclosure process and apply them to the non-judicial foreclosure context as well;
- make the requirement for sale of individual properties at trustee auction consistent with existing provisions; and
- fix erroneous cross references.

A mock-up of the amendments in context is attached to this analysis.

8. Arguments in support of the bill

According to the author:

Census data indicates that more than 1.1 million California homes are currently vacant. With over 150,000 homeless and many more

residents housing insecure, now is not the time for residential properties to be held vacant. During the last financial crisis, large corporations and private investment firms purchased a significant number of foreclosed homes up and down the state and across the country. Many homes were flipped for profit, others were kept vacant, some held and rented at rents above the prevailing neighborhood market. Such practices reduced the number of available homes and amplified California's affordability crisis. When corporations leave properties vacant, Californians who need housing are prevented from renting or purchasing the homes, pushing the cost of housing in the community higher. SB 1079 limits large corporate owners of single family homes from keeping those homes vacant by giving local governments additional enforcement tools and limiting the bulk sale and purchase of foreclosed properties. Additionally SB 1079 would give owner-occupants, cities and non-profits, the first opportunity to bid on the property.

In support, Western Center on Law & Poverty and the California Rural Legal Assistance Foundation write:

In the wake of the COVID-19 pandemic, we must not repeat mistakes made leading up to and during the last recession, and we must keep in mind the lessons of the foreclosure crisis. In the wake of that crisis, we saw a massive transfer of equity out of low-income communities and into the hands of speculative investors, resulting in deterioration of our housing stock, an exacerbation of the racial wealth gap, and the rise of questionable practices such as the bundling and securitization of rents which left tenants suffering at the hands of corporate landlords beholden to stockholders.

SB 1079 is a simple, straightforward measure to limit the practices which could lead to corporate control over our neighborhoods given the scale of homeowners potentially facing foreclosure.

9. Arguments in opposition to the bill

In opposition to the bill, the National Rental Home Council writes:

Foreclosure sales are intended to satisfy unpaid financial obligations, sometimes including unpaid property taxes to local governments. The foreclosure marketplace is also often comprised of properties that need repairs. Limiting the universe of buyers who have the intent and wherewithal to bring the past due

financial obligations current and invest in any necessary repairs to renovations could have the unintended consequences of slowing the renewed availability of foreclosed properties for residential housing.

SUPPORT

Oakland City Council
TechEquity Collaborative

OPPOSITION

California Apartment Association
California Land Title Association
California Rental Housing Association
Fieldstead & Company
National Rental Home Council
Southern California Rental Housing Association

RELATED LEGISLATION

Pending Legislation:

SB 1447 (Bradford, 2020) extends the foreclosure mitigation protections in the Homeowners Bill of Rights to rental properties consisting of one to four units. The bill also reinstates State Bar authority to investigate and enforce violations of the law prohibiting loan modification assistance from charging fees prior to completing promised work. SB 1447 is currently pending consideration on the Senate Floor.

AB 828 (Ting, 2020) imposes a moratorium on residential foreclosures during any COVID-19 related state of emergency and for 15 days thereafter. AB 828 is currently awaiting referral in the Senate Rules Committee.

Prior Legislation:

AB 354 (Calderon, 2017) would have required an institutional investor, as defined, to register with the Department of Business Oversight and report, among other things, the total number of single-family homes in the state that are owned by the institutional investor, including the number owned in each county, and the number occupied by renters throughout the state, and in each county. In his message vetoing AB 354, Governor Brown wrote: "collecting the data would not stop the purchase of these homes by private investors."

AB 2282 (Calderon, 2016) would have established a Task Force on Institutional Investors within the Bureau of Real Estate with a mission to gather and report

information about the operations of large-scale buy-to-rent investors in the state. AB 2282 died on the Senate Floor.

AB 2314 (Carter, Ch. 201, Stats. 2012) repealed the sunset on Civil Code Section 2929.3, making it effective indefinitely, and clarified that the civil fines collected could be spent on legal abatement proceedings, among other things.

SB 1137 (Perata, Ch. 69, Stats. 2008) enacted Civil Code Section 2929.3, requiring the legal owner of vacant residential property purchased or acquired through foreclosure, to maintain it, and authorizing government entities to impose civil fines of up to \$1,000 per day for violations that are not cured after notice.

Amended Mock-up for 2019-2020 SB-1079 (Skinner (S))

Mock-up based on Version Number 98 - Amended Senate 5/13/20

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

SECTION 1. Section 2924f of the Civil Code is amended to read:

(a) As used in this section and Sections 2924g and 2924h, “property” means real property or a leasehold estate therein, and “calendar week” means Monday through Saturday, inclusive.

(b)(1) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage, or any resale resulting from a rescission for a failure of consideration pursuant to subdivision (c) of Section 2924h, notice of the sale thereof shall be given by posting a written notice of the time of sale and of the street address and the specific place at the street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the county seat of the county where the property is to be sold, and publishing a copy once a week for three consecutive calendar weeks.

(2) The first publication to be at least 20 days before the date of sale, in a newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in a newspaper of general circulation published in the public notice district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or public notice district, as the case may be, in a newspaper of general circulation published in the county in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or public notice district or county, as the case may be, in a newspaper of general circulation published in the county in this state that is contiguous to the county in which the property or some part thereof is situated and has, by comparison with all similarly contiguous counties, the highest population based upon total county population as determined by the most recent federal decennial census published by the Bureau of the Census. For the purposes of this section, publication of notice in a public notice district is governed by Chapter 1.1 (commencing with Section 6080) of Division 7 of Title 1 of the Government Code.

(3) A copy of the notice of sale shall also be posted in a conspicuous place on the property to be sold at least 20 days before the date of sale, where possible and where not restricted for any reason. If the property is a single-family residence the posting shall be on a door of the residence, but, if not possible or restricted, then the notice shall be

posted in a conspicuous place on the property; however, if access is denied because a common entrance to the property is restricted by a guard gate or similar impediment, the property may be posted at that guard gate or similar impediment to any development community.

(4) The notice of sale shall conform to the minimum requirements of Section 6043 of the Government Code and be recorded with the county recorder of the county in which the property or some part thereof is situated at least 20 days prior to the date of sale.

(5) The notice of sale shall contain the name, street address in this state, which may reflect an agent of the trustee, and either a toll-free telephone number or telephone number in this state of the trustee, and the name of the original trustor, and also shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any, and a county assessor's parcel number; but if the property has no street address or other common designation, the notice shall contain a legal description of the property, the name and address of the beneficiary at whose request the sale is to be conducted, and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description or a county assessor's parcel number and either a street address or another common designation of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary, or directions obtained therefrom are omitted.

(6) The term "newspaper of general circulation," as used in this section, has the same meaning as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code.

(7) The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, advances at the time of the initial publication of the notice of sale, and, if republished pursuant to a cancellation of a cash equivalent pursuant to subdivision (d) of Section 2924h, a reference of that fact; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount, including any amount provided in good faith by or on behalf of the beneficiary. An inaccurate statement of this amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(8)(A) On and after April 1, 2012, if the deed of trust or mortgage containing a power of sale is secured by real property containing from one to four single-family residences, the

notice of sale shall contain substantially the following language, in addition to the language required pursuant to paragraphs (1) to (7), inclusive:

NOTICE TO POTENTIAL BIDDERS: If you are considering bidding on this property lien, you should understand that there are risks involved in bidding at a trustee auction. You will be bidding on a lien, not on the property itself. Placing the highest bid at a trustee auction does not automatically entitle you to free and clear ownership of the property. You should also be aware that the lien being auctioned off may be a junior lien. If you are the highest bidder at the auction, you are or may be responsible for paying off all liens senior to the lien being auctioned off, before you can receive clear title to the property. You are encouraged to investigate the existence, priority, and size of outstanding liens that may exist on this property by contacting the county recorder's office or a title insurance company, either of which may charge you a fee for this information. If you consult either of these resources, you should be aware that the same lender may hold more than one mortgage or deed of trust on the property.

NOTICE TO PROPERTY OWNER: The sale date shown on this notice of sale may be postponed one or more times by the mortgagee, beneficiary, trustee, or a court, pursuant to Section 2924g of the California Civil Code. The law requires that information about trustee sale postponements be made available to you and to the public, as a courtesy to those not present at the sale. If you wish to learn whether your sale date has been postponed, and, if applicable, the rescheduled time and date for the sale of this property, you may call [telephone number for information regarding the trustee's sale] or visit this Internet Web site [Internet Web site address for information regarding the sale of this property], using the file number assigned to this case [case file number]. Information about postponements that are very short in duration or that occur close in time to the scheduled sale may not immediately be reflected in the telephone information or on the Internet Web site. The best way to verify postponement information is to attend the scheduled sale.

(B) A mortgagee, beneficiary, trustee, or authorized agent shall make a good faith effort to provide up-to-date information regarding sale dates and postponements to persons who wish this information. This information shall be made available free of charge. It may be made available via an Internet Web site, a telephone recording that is accessible 24 hours a day, seven days a week, or through any other means that allows 24 hours a day, seven days a week, no-cost access to updated information. A disruption of any of these methods of providing sale date and postponement information to allow for reasonable maintenance or due to a service outage shall not be deemed to be a violation of the good faith standard.

(C) Except as provided in subparagraph (B), nothing in the wording of the notices required by subparagraph (A) is intended to modify or create any substantive rights or obligations for any person providing, or specified in, either of the required notices. Failure to comply with subparagraph (A) or (B) shall not invalidate any sale that would otherwise be valid under Section 2924f.

(D) Information provided pursuant to subparagraph (A) does not constitute the public declaration required by subdivision (d) of Section 2924g.

(9) If the sale of the property is to be a unified sale as provided in subparagraph (B) of paragraph (1) of subdivision (a) of Section 9604 of the Commercial Code, the notice of sale shall also contain a description of the personal property or fixtures to be sold. In the case where it is contemplated that all of the personal property or fixtures are to be sold, the description in the notice of the personal property or fixtures shall be sufficient if it is the same as the description of the personal property or fixtures contained in the agreement creating the security interest in or encumbrance on the personal property or fixtures or the filed financing statement relating to the personal property or fixtures. In all other cases, the description in the notice shall be sufficient if it would be a sufficient description of the personal property or fixtures under Section 9108 of the Commercial Code. Inclusion of a reference to or a description of personal property or fixtures in a notice of sale hereunder shall not constitute an election by the secured party to conduct a unified sale pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 9604 of the Commercial Code, shall not obligate the secured party to conduct a unified sale pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 9604 of the Commercial Code, and in no way shall render defective or noncomplying either that notice or a sale pursuant to that notice by reason of the fact that the sale includes none or less than all of the personal property or fixtures referred to or described in the notice. This paragraph shall not otherwise affect the obligations or duties of a secured party under the Commercial Code.

(c)(1) This subdivision applies only to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence, where the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of a power of sale contained in a deed of trust or mortgage described in paragraph (1).

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

(Deed of trust or mortgage)

DATED . UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) shall be held in the county where the residence is located and shall be made to the person making the highest offer. During the 20-day period prior to the date of sale, the trustee shall receive offers from individuals who will

be owner-occupants of the home and from a public entity that is utilizing public funds to purchase the property. Any offer from a prospective owner-occupant shall be accompanied by an owner-occupant certification. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and prior to which the property may be conveyed by the trustor to the person making the offer according to its terms. The offer is revocable until accepted. The performance of the offer, following acceptance, according to its terms, by a conveyance of the property to the offeror, shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

For the purposes of this paragraph, the following definitions shall apply:

“Owner-occupants” means buyers who will occupy the property as their principal residence within 60 days of closing and will maintain their occupancy for at least one year.

“Public entity” means the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, including, but not limited to, a community land trust or a nonprofit entity providing affordable housing.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars (\$50).

(6) This subdivision applies only to property on which notices of default were filed on or after the effective date of this subdivision.

(d) With respect to residential real property containing no more than four dwelling units, a separate document containing a summary of the notice of sale information in English and the languages described in Section 1632 shall be attached to the notice of sale provided to the mortgagor or trustor pursuant to Section 2923.3.

SEC. 2. Section 2924g of the Civil Code is amended to read:

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

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

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

(4) Notwithstanding any other law, a sale of property under the power of sale contained in any deed of trust or mortgage shall be subject to the follow restrictions:

(A) No person shall be permitted to purchase more than three properties in the same county on the same date pursuant to procedures described in this section. For purposes of this paragraph, person is defined as the entity in whose name title to the property is recorded.~~A purchaser shall not be permitted to buy more than three properties at any auction regardless of the seller of the property.~~

(B) A ~~seller trustee~~ shall not bundle properties for the purpose of sale. Each property shall be bid on separately, unless the deed of trust or mortgage provides otherwise.

(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.

(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) 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.

(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.

SEC. 32. Section 2929.3 of the Civil Code is amended to read:

2929.3. (a) (1) A legal owner shall maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. A governmental entity may impose a civil fine of up to ten thousand dollars (\$10,000) per day for a violation. If the governmental entity chooses to impose a fine pursuant to this section, it shall give notice of the alleged violation, including a description of the conditions that gave rise to the allegation, and notice of the entity's intent to assess a civil fine if action to correct the violation is not commenced within a period of not less than 14 days and completed within a period of not less than 30 days. The notice shall be mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 27321.5 of the Government Code, or, if none, to the return address provided on the deed or other instrument.

(2) The governmental entity shall provide a period of not less than 30 days for the legal owner to remedy the violation prior to imposing a civil fine and shall allow for a hearing and opportunity to contest any fine imposed. In determining the amount of the fine, the

governmental entity shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation. The maximum civil fine authorized by this section is ten thousand dollars (\$10,000) for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation established by the governmental entity.

(3) Subject to the provisions of this section, a governmental entity may establish different compliance periods for different conditions on the same property in the notice of alleged violation mailed to the legal owner.

(b) For purposes of this section, “failure to maintain” means failure to care for the exterior of the property, including, but not limited to, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water or other conditions that create a public nuisance.

(c) Notwithstanding subdivisions (a) and (b), a governmental entity may provide less than 30 days’ notice to remedy a condition before imposing a civil fine if the entity determines that a specific condition of the property threatens public health or safety and provided that notice of that determination and time for compliance is given.

(d) Fines and penalties collected pursuant to this section shall be directed to local nuisance abatement programs, including, but not limited to, legal abatement proceedings.

(e) A governmental entity may not impose fines on a legal owner under both this section and a local ordinance.

(f) These provisions shall not preempt any local ordinance.

(g) This section shall only apply to residential real property.

(h) The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

SEC. 43. Section 726.7 is added to the Code of Civil Procedure, to read:

726.7. (a) If in any action to recover a debt or enforce a right secured by mortgage upon a residential real property pursuant to this chapter the court directs the sale of the encumbered property pursuant to Section 726, the mortgagee shall, before offering the residential real property for sale on the open market in accordance with this chapter, first offer that property exclusively to individuals who will be owner-occupants of the home, or to a public entity that is utilizing public funds to purchase the property, for the first 20 days the property is listed on the market. After the first 20 days that the property is listed, any person may submit an offer to purchase the property and these offers shall be considered along with the offers submitted during the first 20-day listing period. An

owner-occupant purchaser shall be required to sign an owner-occupant certification as a rider to the residential real estate purchase and sale contract.

(b) For the purpose of this section:

(1) "Owner-occupants" means buyers who will occupy the property as their principal residence within 60 days of closing and will maintain their occupancy for at least one year.

(2) "Public entity" means the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, including, but not limited to, a community land trust or a nonprofit entity providing affordable housing.

SEC. 54. Section 50415 is added to the Health and Safety Code, to read:

50415. (a) Notwithstanding any law, the department shall establish a process whereby a city, county, community land trust, or housing sponsor may register with the department in order to receive notification of a foreclosure sale of residential real property that is subject to Section 726.7 of the Code of Civil Procedure or notification pursuant to Section 1954.63 of the Civil Code.

(b) Upon receipt of a notice received pursuant to paragraph (2) of subdivision (c) of Section 726.7 of the Code of Civil Procedure or paragraph (1) of subdivision (b) of Section 1954.63 of the Civil Code, the department shall notify each entity that has registered with it pursuant to this section of that notice.

(c) Upon request, the department shall provide a list of each entity that has registered with it pursuant to this section.

(d) For purposes of this section:

(1) "Community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

(A) Has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences.

(B) All dwellings and units located on the land owned by the nonprofit corporation are sold to a qualified owner to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(C) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99

~~years. has the same meaning as defined in Section 726.7 of the Code of Civil Procedure.~~

(2) "Mortgagee" means any entity that has issued a loan that is secured by a mortgage on residential real property.

(3) "Residential real property" means any real property located in this state that contains at least one residential dwelling unit.~~has the same meaning as defined in Section 726.7 of the Code of Civil Procedure.~~