

AMENDED IN ASSEMBLY JUNE 10, 2020

AMENDED IN ASSEMBLY JUNE 4, 2020

AMENDED IN ASSEMBLY MAY 11, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2501**

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**Introduced by Assembly Member Limón**

February 19, 2020

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An act to add Title 19 (commencing with Section 3273.01) to Part 4 of Division 3 of the Civil Code, and to add Section 23039 to the Financial Code, relating to COVID-19 relief.

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Limón. COVID-19: homeowner, tenant, and consumer relief.

(1) Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust. In this regard, existing law requires that a notice of default and a notice of sale be recorded and that specified periods of time elapse between the recording and the sale. Existing law establishes certain requirements in connection with foreclosures on mortgages and deeds of trust, including restrictions on the actions mortgage servicers while a borrower is attempting to secure a loan modification or has submitted a loan modification application. Existing law also imposes requirements on loans secured by liens on motor vehicles.

This bill would enact the COVID-19 Homeowner, Tenant, and Consumer Relief Law of 2020. The bill, with respect to residential mortgage loans, would prohibit a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent, ~~as defined,~~ *agent* from taking specified

actions during the ~~COVID-19 emergency and the 180-day period following the emergency.~~ *covered period.* The “*covered period*” would be defined as the 12 months following the operational date of the act. The bill would prohibit the above persons from commencing or continuing any judicial foreclosure action, recording a notice of default, or taking any action to evict a person following a foreclosure. The bill would also require the above persons to stay all foreclosure proceedings and time limits in a judicial or nonjudicial foreclosure on a ~~property.~~ *property during the covered period.* The bill would not apply these provisions to a mortgage secured by a dwelling that any of the above persons has determined, after exercising reasonable diligence, is vacant or abandoned.

The bill, with respect to residential mortgage loans, would authorize a borrower experiencing a financial hardship during the ~~COVID-19 emergency~~ *covered period* to request forbearance from any mortgage obligation by submitting a request to the borrower’s mortgage servicer. The bill would require the mortgage servicer to provide the forbearance requested for ~~180 days and to extend that timeframe if the borrower affirms that they continue to experience hardship.~~ *the period requested by the borrower, up to an initial period of 180 days, the length of which would be required to be extended at the request of the borrower for a total forbearance period of up to 12 months. If the borrower requests a forbearance period greater than 90 days, the servicer would be required to provide an initial forbearance term of not less than 90 days, and automatically extend it for an additional 90 days, unless the servicer confirms the borrower does not want to renew the forbearance.* The bill would prohibit a mortgage servicer from misleading or making misrepresentations to a borrower about forbearance and repayment options.

The bill would require a borrower receiving a forbearance with respect to a mortgage secured by a dwelling that has a tenant, regardless of whether the borrower also lives in the dwelling, to provide the tenant with rent relief for not less than the forbearance period. ~~The bill would require a mortgage servicer, during the COVID-9 emergency, to automatically grant a delinquent borrower on a mortgage obligation a 180-day forbearance, subject to extension.~~ The bill would require a mortgage servicer, upon placing a mortgage obligation in forbearance, to provide the borrower written notification of the forbearance terms, treatment of payments, and other options available to the borrower at the end of the forbearance period. *The bill would require the servicer,*

*no later than 30 days before the end of the forbearance, to notify the borrower of their options to modify their loan or reinstate their mortgage account to current status, as provided, and provide a written notice, within 30 days of the original notification, of their rights and obligations with regard to their loan modification or reinstatement, as provided.*

The bill would prohibit a mortgage servicer from assessing, accruing, or applying fees, penalties, or additional interest to the borrower's account beyond specified scheduled or calculated amounts. ~~The bill would require the mortgage servicer, if the borrower in forbearance makes payments to an impound account, to pay or advance the disbursements on or before relevant deadlines to avoid a penalty and would authorize the mortgage servicer to collect any resulting shortage or deficiency on that account for the borrower after the forbearance period ends. The bill would also require the mortgage servicer to evaluate the borrower's ability to return to making regular mortgage payments, and to take various steps to allow for modification of the borrower's loan.~~ The bill would require a mortgage servicer that claims investor guidelines or applicable law prohibit implementation of postforbearance *modification or reinstatement on the required terms*, to notify the *borrower and the Commissioner of Business Oversight*, as specified, and to present ~~documentation, in accordance with procedures developed by the commissioner, subject to judicial review.~~ *documentation. The commissioner would be required to develop a procedure for reviewing and determining the validity of the grounds for the exception, and the determination would be subject to judicial review.* The bill would require the mortgage servicer, if the borrower is unable to return to making regular mortgage payments, to evaluate all ~~loan modification~~ *loss mitigation and foreclosure prevention* options, and, if the borrower qualifies, to implement the option with no penalties, late fees, *modification fees*, or additional interest beyond specified scheduled amounts. The bill would also ~~require~~ *authorize* a mortgage servicer, if a borrower does not qualify for ~~modification~~, to evaluate the borrower for all available nonhome retention loss mitigation options before considering any foreclosure acts. The bill would require any ~~notices or agreements to be provided in specified languages.~~ *loss mitigation or foreclosure prevention options to pursue foreclosure after expiration of the covered period.*

The bill would provide that a mortgage servicer that violates any of the above requirements forfeits their rights to commence a foreclosure

on a borrower that is harmed by the violation, subject to the right to cure a violation and reinstate their rights. The bill would also make a violation of the above provisions an unfair and deceptive business practice, as well as a violation of other specified laws. The bill would authorize a borrower, if a trustee's deed upon sale has not been recorded, to bring an action for injunctive relief, and would establish various other legal remedies, including treble damages and attorney's fees and costs.

*This bill would provide that a mortgage servicer that violates the above requirements is in violation of the laws governing the servicer's license and subject to enforcement actions by its licensing agency. The bill would authorize a borrower harmed by a violation of the above requirements to bring an action for injunctive relief, damages, restitution, and any other remedies available. The bill would require a court to award attorney's fees and costs to a prevailing borrower.*

The bill, with respect to multifamily mortgage loans, would authorize a borrower to submit a request for forbearance to the borrower's mortgage servicers, affirming that the multifamily borrower is experiencing hardship during the COVID-19 emergency. The bill would require a mortgage servicer, upon request from a multifamily borrower, to request documentation of the financial hardship, provide the forbearance for not less than 180 days, subject to extension. The bill would require a multifamily borrower, during the forbearance term, to provide rent relief to tenants living in the property secured by the mortgage and would prohibit eviction for a tenant's nonpayment of rent or application or accrual of fees or other penalties on renters for nonpayment of rent. The bill would require a multifamily borrower to bring a loan placed in forbearance under these provisions current within a specified timeframe.

This bill, with respect to vehicle-secured credit obligations, would prohibit a servicer of vehicle-secured credit from taking any action *to use self-help to repossess* ~~repossess, as provided,~~ a mobilehome or motor vehicle that secures a loan during the COVID-19 emergency and for the 180-day period thereafter. *vehicle-secured credit obligation, until January 1, 2023, except as provided.* The bill would authorize a consumer experiencing a financial hardship during the ~~COVID-19 emergency~~ *covered period* to request forbearance from any vehicle-secured credit obligation by submitting a request to the servicer of vehicle-secured credit, affirming that the consumer is experiencing hardship. The bill would require a servicer of vehicle-secured credit to provide the forbearance requested for a period of *at least* 90 days, and

to extend the forbearance period upon request, if the consumer affirms that they continue to experience hardship. The bill would authorize a servicer of vehicle-secured credit to assess, accrue, or apply to a consumer's account a rate of interest of up to 7% per annum, but would prohibit a servicer of vehicle-secured credit from assessing, accruing, or applying additional fees, penalties, or other interest to a consumer's account beyond the amounts scheduled or calculated, as specified.

The bill would require the holder of a vehicle-secured credit obligation to evaluate a consumer's ability return to making regular payments before the completion of a forbearance period, and if the consumer is able to return to making regular payments, modify the consumer's vehicle-secured credit obligation to extend the term, modify the obligation, notify the borrower, and take other specified actions, including proceeding with a written notice of intent to repossess the vehicle only after ~~the expiration of the COVID-19 emergency and the 180-day period thereafter.~~ *January 1, 2023*. The bill would provide that a repossession of a mobilehome or motor vehicle by a servicer of a vehicle-secured credit obligation that has failed to comply with all of these provisions constitutes an acceptance of the collateral in full satisfaction of the vehicle-secured credit obligation.

(2) The California Deferred Deposit Transaction Law provides for the licensure and regulation by the Commissioner of Business Oversight of persons engaged in the business of making or arranging deferred deposit transactions. A knowing and willful violation of the provisions of this law is a crime.

This bill, during the COVID-19 emergency and the 180-day period thereafter, would prohibit a fee for a deferred deposit transaction from exceeding 5% of the face amount of the check. The bill would require a licensee under that law to offer a customer the option to enter into a payment plan that provides an extension of time for repayment of an existing deferred deposit transaction in accordance with specified procedures. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. The bill would also include related legislative findings.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) In late December 2019, several cases of unusual pneumonia
- 3 began to emerge in the Hubei province of China. On January 7,
- 4 2020, a novel coronavirus, SARS-CoV-2, was identified as the
- 5 likely source of the acute respiratory disease now known as
- 6 COVID-19.
- 7 (b) Infections have rapidly spread to other countries throughout
- 8 the world, including the United States.
- 9 (c) On January 30, 2020, the World Health Organization (WHO)
- 10 declared COVID-19 a Public Health Emergency of International
- 11 Concern, and on January 31, 2020, the United States Secretary of
- 12 Health and Human Services declared a public health emergency.
- 13 (d) On March 4, 2020, California Governor Gavin Newsom
- 14 declared a state of emergency to make additional resources
- 15 available, formalize emergency actions already underway across
- 16 multiple state agencies and departments, and help the state prepare
- 17 for a broader spread of COVID-19.
- 18 (e) On March 19, 2020, California Governor Gavin Newsom
- 19 issued a stay at home order to protect the health and well-being of
- 20 all Californians and to establish consistency across the state in
- 21 order to slow the spread of the virus.
- 22 (f) Due to the voluntary and mandatory actions by Californians
- 23 to slow the spread of COVID-19, economic activity in the state
- 24 has fallen precipitously.
- 25 (g) *State and local government officials have issued legal orders*
- 26 *to protect the health and safety of California residents, but that*
- 27 *may also have the effect of limiting or prohibiting a broad range*
- 28 *of economic activities that generate income for California workers*
- 29 *and business owners.*
- 30 (h) *Given the economic consequences of the legal orders issued*
- 31 *by state and local government officials, the state government has*
- 32 *a heightened duty to mitigate harm to California residents that*
- 33 *are directly or indirectly caused by those legal orders.*
- 34 (~~g~~)

1 (i) In the seven weeks prior to May 1, 2020, approximately  
2 3,900,000 California workers filed claims for unemployment  
3 benefits, which represents 20 percent of the state’s workforce.

4 (j) *Thousands of businesses across the state have closed, either*  
5 *temporarily or permanently, or have reduced operating hours and*  
6 *capacity, with particularly acute effects on certain industries,*  
7 *including accommodation and food, personal care, and arts,*  
8 *entertainment, and recreation.*

9 ~~(h)~~

10 (k) The economic hardships brought on by the COVID-19  
11 pandemic mean that many California individuals and households  
12 are likely to have difficulty remaining current on monthly debt  
13 obligations through no fault of their own.

14 ~~(i)~~

15 (l) Temporary forbearance benefits not only borrowers, but also  
16 other creditors by avoiding downward collateral price spirals  
17 triggered by an increase in foreclosure or repossession activity.

18 ~~(j)~~

19 (m) Without forbearance, many borrowers are unlikely to pay  
20 their obligations according to their original terms and are likely to  
21 default on obligations or file for bankruptcy, resulting in reduced  
22 recoveries for creditors, and in the case of bankruptcy, no recovery  
23 of unaccrued interest.

24 ~~(k)~~

25 (n) With forbearance, creditors are likely to realize greater  
26 long-term value because borrowers will be more likely to repay  
27 their obligations after the major disaster or emergency has subsided.

28 ~~(l)~~

29 (o) Ensuring that homeowners and tenants are able to remain  
30 in their residences helps to minimize the spread of the novel  
31 coronavirus and protects the public health.

32 ~~(m)~~

33 (p) Providing forbearance and an opportunity to repay amounts  
34 owed after the emergency subsidies will position California  
35 consumers, households, and businesses for a stronger economic  
36 recovery than the state would otherwise realize if no action were  
37 taken.

38 ~~(n)~~

39 (q) Without emergency action to prevent it, delinquent loan  
40 payments will likely lead to mass foreclosures, evictions, and

1 repossessions that will harm the health, safety, and welfare of  
2 Californians today and for years after the pandemic ends.

3 ~~(e)~~

4 (r) The Legislature hereby finds and declares that there is a  
5 current and immediate threat to the public health, safety, and  
6 welfare and a need for immediate preservation of the public peace,  
7 health, or safety that warrants this ~~urgency~~ legislation, which  
8 finding is based upon the facts stated in the recitals above.

9 SEC. 2. Title 19 (commencing with Section 3273.01) is added  
10 to Part 4 of Division 3 of the Civil Code, to read:

11

12 TITLE 19. COVID-19 HOMEOWNER, TENANT, AND  
13 CONSUMER RELIEF LAW OF 2020

14

15 CHAPTER 1. TITLE AND DEFINITIONS

16

17 3273.01. This title is ~~known~~ *known*, and may be ~~cited~~ *cited*, as  
18 the “COVID-19 Homeowner, Tenant, and Consumer Relief Law  
19 of 2020.”

20 3273.1. For purposes of this title, the following definitions  
21 apply:

22 (a) “Borrower” means any natural person who is a mortgagor  
23 or trustor ~~and who is potentially eligible for any federal, state, or~~  
24 ~~proprietary foreclosure prevention alternative program offered by,~~  
25 ~~or through, the borrower’s mortgage servicer. “Borrower” shall~~  
26 ~~not include any of the following: or a confirmed successor in~~  
27 ~~interest as defined in Section 1024.31 of Title 12 of the Code of~~  
28 ~~Federal Regulations.~~

29 (1) ~~An~~ “Borrower” shall not include an individual who has  
30 surrendered the secured property as evidenced by either a letter  
31 confirming the surrender or delivery of the keys to the property to  
32 the mortgagee, trustee, beneficiary, or authorized agent.

33 (2) ~~An individual who has contracted with an organization,~~  
34 ~~person, or entity whose primary business is advising people who~~  
35 ~~have decided to leave their homes on how to extend the foreclosure~~  
36 ~~process and avoid their contractual obligations to mortgagees.~~

37 (2) “Borrower” shall also mean a person who holds a power  
38 of attorney for a borrower described in paragraph (1).

39 (b) “Consumer” means a person obligated to repay a  
40 vehicle-secured credit obligation.



1 (e) ~~“COVID-19 emergency” means the period that begins upon~~  
2 ~~the date of the enactment of this title and ends on the date that the~~  
3 ~~state declares the emergency related to the COVID-19 disease has~~  
4 ~~ended.~~

5 (c) *“Covered period” means the 12 months following the*  
6 *operational date of this title.*

7 (d) “Impound account” means a type of account for payment  
8 of taxes on real property, insurance premiums, or other purposes  
9 relating to the property. Such an account may be structured as an  
10 impound, trust, or other type of account.

11 (e) “Mobilehome” means a structure designed for human  
12 habitation and for being moved on a street or highway under permit  
13 pursuant to Section 35790 of the Vehicle Code. Mobilehome  
14 includes a manufactured home, as defined in Section 18007 of the  
15 Health and Safety Code, and a mobilehome, as defined in Section  
16 18008 of the Health and Safety Code, but, except as provided in  
17 subdivision (b), does not include a recreational vehicle, as defined  
18 in Section 799.29 of this code and Section 18010 of the Health  
19 and Safety Code or a commercial coach as defined in Section  
20 18001.8 of the Health and Safety Code.

21 (f) “Mortgage servicer” means a person or entity who directly  
22 services a loan, or who is responsible for interacting with the  
23 borrower, managing the loan account on a daily basis including  
24 collecting and crediting periodic loan payments, managing any  
25 escrow account, or enforcing the note and security instrument,  
26 either as the current owner of the promissory note or as the current  
27 owner’s authorized agent. “Mortgage servicer” also means a  
28 subservicing agent to a master servicer by contract. “Mortgage  
29 servicer” shall not include a trustee, or a trustee’s authorized agent,  
30 acting under a power of sale pursuant to a deed of trust.

31 (g) “Motor vehicle” means a vehicle required to be registered  
32 under the Vehicle Code ~~that is bought for use primarily for personal~~  
33 ~~or family purposes, and does not mean any vehicle that is bought~~  
34 ~~for use primarily for business or commercial purposes~~ or a  
35 mobilehome, as defined in Section 18008 of the Health and Safety  
36 Code that is sold on or after July 1, 1981. “Motor vehicle” does  
37 not include any trailer that is sold in conjunction with a vessel and  
38 that comes within the definition of “goods” under Section 1802.1.

1 (h) “Multifamily borrower” means a borrower of a residential  
2 mortgage loan that is secured by a lien against a property  
3 comprising five or more dwelling units.

4 (i) “Servicer of vehicle-secured credit” means either:

5 (1) The entity that is servicing the vehicle-secured credit  
6 obligation for the holder.

7 (2) The holder, if it is servicing the obligation.

8 (j) “Vehicle-secured credit obligation” means a form of credit  
9 owed by a natural person, not to include artificial entities, such as  
10 partnerships, corporations, trusts, estates, cooperatives, associations  
11 or entities created by statute, such as governmental agencies, that  
12 is either:

13 (1) A loan that is secured by a ~~mobile home or~~ motor vehicle.

14 (2) A conditional sale contract as defined by subdivision (a) of  
15 Section 2981.

16 3273.2. (a) The provisions of this title apply to specified  
17 obligations, as follows:

18 (1) Article 1 (commencing with Section 3273.10) of Chapter 2  
19 shall apply to a mortgage or deed of trust that is secured by  
20 residential ~~property~~ *property, including individual units of*  
21 *condominiums or cooperatives*, containing no more than four  
22 dwelling ~~units~~ *units, and that was outstanding as of the enactment*  
23 *date of this title.*

24 (2) Article 2 (commencing with Section 3273.20) of Chapter 2  
25 shall apply to a mortgage or deed of trust that is secured by  
26 residential property containing five or more dwelling ~~units~~ *units,*  
27 *and that was outstanding as of the enactment date of this title.*

28 (3) Chapter 3 (commencing with Section 3273.30) shall apply  
29 to a vehicle-secured credit obligation that was outstanding as of  
30 the enactment of this ~~title~~ *title. Chapter 3 (commencing with*  
31 *Section 3273.30) shall not apply to a vehicle-secured credit*  
32 *obligation originated after the enactment date of this title.*

33 (b) Notwithstanding subdivision (a), Chapter 3 (*commencing*  
34 *with Section 3273.30)* shall apply to all nonpurchase money loans  
35 where the lender obtains a security interest in a motor vehicle.

36 (c) The provisions of this title apply to the specified persons,  
37 as follows:

38 (1) Chapter 2 (commencing with Section 3273.10) shall apply  
39 to a depository institution chartered under federal or state law, a  
40 person ~~licensed pursuant to~~ *covered by the licensing requirements*

1 of Division 9 (commencing with Section 22000) or Division 20  
2 (commencing with Section 50000) of the Financial Code, or a  
3 person licensed pursuant to Part 1 (commencing with Section  
4 10000) of Division 4 of the Business and Professions Code.

5 (2) Chapter 3 (commencing with Section 3273.30) shall apply  
6 to a holder of a conditional sales contract as defined by the  
7 Automobile Sales Finance Act (Chapter 2b (commencing with  
8 Section 2981) of Title 14), covered by the licensing requirements  
9 of Division 9 (commencing with Section 22000) of the Financial  
10 Code, or a depository institution chartered under federal or state  
11 law.

12  
13 CHAPTER 2. MORTGAGES

14  
15 Article 1. Residential Mortgage Loans

16  
17 3273.10. (a) A mortgage servicer, mortgagee, trustee,  
18 beneficiary, or authorized agent shall not do any of the following  
19 during the ~~COVID-19 emergency and the 180-day period following~~  
20 ~~that emergency~~; *covered period*:

- 21 (1) Commence or continue any judicial foreclosure action.
- 22 (2) Record a notice of default pursuant to Section 2924.
- 23 (3) Take any action to evict a person following a foreclosure.

24 (b) A mortgage servicer, mortgagee, trustee, beneficiary, or  
25 authorized agent shall stay all foreclosure proceedings and time  
26 limits in a judicial or nonjudicial foreclosure on a property during  
27 the ~~COVID-19 emergency and the 180-day period following that~~  
28 ~~emergency~~; *covered period*. All time periods established under the  
29 state foreclosure law for a borrower to respond, cure a default,  
30 redeem, or take any action shall be stayed during the ~~COVID-19~~  
31 ~~emergency and the 180-day period following that emergency~~;  
32 *covered period*.

33 (c) This section does not apply to a mortgage that is secured by  
34 a dwelling that the mortgage servicer, mortgagee, trustee,  
35 beneficiary, or authorized agent has determined, after exercising  
36 reasonable diligence, is vacant or abandoned.

37 3273.11. (a) During the ~~COVID-19 emergency~~, *covered*  
38 *period*, a borrower may request forbearance from any mortgage  
39 obligation by submitting a request to the borrower’s mortgage  
40 servicer, either orally or in writing, affirming that the borrower is

1 experiencing a financial hardship that prevents the borrower from  
2 making timely payments on the mortgage obligation due, directly  
3 or indirectly, to the COVID-19 emergency.

4 (b) Pursuant to a borrower submitting a request for forbearance,  
5 a mortgage servicer may require the borrower to provide a written  
6 attestation subject to the following requirements:

7 (1) The attestation shall include only the following text: “I,  
8 [borrower name], attest that I am experiencing a financial hardship  
9 that prevents me from making timely payments on my mortgage  
10 obligation due, directly or indirectly, to the COVID-19  
11 emergency.”

12 (2) The mortgage servicer shall notify the borrower of the  
13 attestation requirement and the wording set forth in paragraph (1)  
14 and provide clear directions for how the attestation shall be  
15 delivered to the mortgage servicer.

16 (3) The mortgage servicer shall provide forbearance for a period  
17 of no less than 30 days before canceling the forbearance due to a  
18 borrower failing to provide the attestation required by the mortgage  
19 servicer.

20 (4) The mortgage servicer shall not require the borrower to  
21 provide any additional information or documentation besides the  
22 attestation described in paragraph (1).

23 (c) A mortgage servicer shall provide the forbearance requested  
24 pursuant to subdivision (a) ~~for a period of 180 days. If the borrower~~  
25 ~~affirms that they continue to experience hardship within the 30~~  
26 ~~days prior to the expiration of the initial forbearance period, the~~  
27 ~~mortgage servicer shall extend the forbearance period upon request~~  
28 ~~of the borrower for an additional 180 days: *the period requested*~~  
29 ~~by the borrower, up to an initial period of 180 days, the length of~~  
30 ~~which shall be extended by the servicer at the request of the~~  
31 ~~borrower for the period or periods requested by the borrower, for~~  
32 ~~a total forbearance period of up to 12 months. At the borrower’s~~  
33 ~~request, either the initial or any extended period of forbearance~~  
34 ~~may be shortened: *shortened or discontinued.*~~

35 (d) ~~A mortgage servicer shall not mislead or make~~  
36 ~~misrepresentations to a borrower about any of the following:~~

- 37 (1) ~~Options for forbearance provided by state or federal law.~~
- 38 (2) ~~Options for repayment after a forbearance period ends~~  
39 ~~provided by state or federal law.~~

1 ~~(e) A borrower receiving a forbearance under this article with~~  
2 ~~respect to a mortgage secured by a dwelling that has a tenant,~~  
3 ~~whether or not the borrower also lives in the dwelling, shall provide~~  
4 ~~the tenant with rent relief for a period of not less than the period~~  
5 ~~covered by the forbearance.~~

6 *(d) For purposes of providing a forbearance under this section*  
7 *and pursuant to a borrower requesting a forbearance period of*  
8 *greater than 90 days, a mortgage servicer shall provide an initial*  
9 *forbearance with a term of not less than 90 days, provided that*  
10 *the forbearance is automatically extended for an additional 90*  
11 *days unless the mortgage servicer confirms that the borrower does*  
12 *not want to renew the forbearance.*

13 *(e) During the period of a forbearance under this article, a*  
14 *mortgage servicer shall not assess, accrue, or apply to a*  
15 *borrower's account any fees, penalties, or additional interest*  
16 *beyond the amounts scheduled or calculated as if the borrower*  
17 *made all contractual payments on time and in full under the terms*  
18 *of the mortgage contract in effect at the time the borrower enters*  
19 *into the forbearance.*

20 *(f) Upon providing a forbearance pursuant to subdivision (c),*  
21 *a mortgage servicer shall provide the borrower written notification*  
22 *of the forbearance terms, including treatment of any payments to*  
23 *an impound account during the forbearance period, and a*  
24 *description of the loss mitigation options that may be available to*  
25 *the borrower at the end of the forbearance period based on the*  
26 *borrower's specific loan.*

27 *(g) A mortgage servicer, mortgagee, or beneficiary of the deed*  
28 *of trust, or an authorized agent thereof, who, with respect to a*  
29 *borrower of a federally backed mortgage, complies with the*  
30 *relevant provisions regarding forbearances in Section 4022 of the*  
31 *federal Coronavirus Aid, Relief, and Economic Security Act (the*  
32 *CARES Act) (Public Law 116-136), including any amendments or*  
33 *revisions to those provisions, shall be deemed to be in compliance*  
34 *with this section.*

35 ~~3273.12. (a) Notwithstanding any other state law governing~~  
36 ~~forbearance relief, during the COVID-19 emergency, a mortgage~~  
37 ~~servicer shall automatically grant a borrower who is or becomes~~  
38 ~~60 days or more delinquent on a mortgage obligation a 180-day~~  
39 ~~forbearance, which may be extended upon request of the borrower~~  
40 ~~for an additional 180 days. Such a borrower may elect to continue~~

1 making regular payments by notifying their mortgage servicer of  
2 their election.

3 (b) Upon placing a mortgage obligation in forbearance pursuant  
4 to subdivision (a), a mortgage servicer shall provide the borrower  
5 written notification of the forbearance terms, including treatment  
6 of payments to an impound account during the forbearance period,  
7 and a complete and accurate description of the loss mitigation and  
8 reinstatement options that will be available to the borrower at the  
9 end of the forbearance period.

10 (c) Any payments made by the borrower during the forbearance  
11 period shall be credited to the borrower's account in accordance  
12 with Section 129F of the Truth in Lending Act (15 U.S.C. Sec.  
13 1639f) or as the borrower may otherwise instruct that is consistent  
14 with the terms of the mortgage loan contract.

15 ~~3273.13.~~ (a) Upon receiving a request for forbearance from a  
16 borrower under Section 3273.11 or placing a borrower in automatic  
17 forbearance under Section 3273.12, a mortgage servicer shall  
18 provide the forbearance for not less than 180 days, and an  
19 additional 180 days at the request of the borrower, provided that  
20 the borrower will have the option to discontinue the forbearance  
21 at any time.

22 (b) During the period of a forbearance under this article, a  
23 mortgage servicer shall not assess, accrue, or apply to a borrower's  
24 account any fees, penalties or additional interest beyond the  
25 amounts scheduled or calculated as if the borrower made all  
26 contractual payments on time and in full under the terms of the  
27 mortgage contract in effect at the time the borrower enters into the  
28 forbearance.

29 (c) If a borrower in forbearance under this article is required to  
30 make payments to an impound account, the mortgage servicer shall  
31 pay or advance the disbursements on or before any relevant  
32 deadlines to avoid a penalty, regardless of the status of the  
33 borrower's payments. The mortgage servicer may collect any  
34 resulting shortage or deficiency in the impound account from the  
35 borrower after the forbearance period ends in any of the following  
36 manners at the borrower's election:

- 37 (1) In a lump sum.
- 38 (2) Amortized over 60 months.
- 39 (3) Capitalized into the loan.

1 ~~3273.14. (a) Before the completion of a forbearance period~~  
2 ~~provided by this article, a mortgage servicer shall evaluate the~~  
3 ~~borrower's ability to return to making regular mortgage payments.~~

4 ~~(b) If the borrower is able to return to making regular mortgage~~  
5 ~~payments based on the evaluation required by subdivision (a), the~~  
6 ~~mortgage servicer shall:~~

7 ~~(1) Either:~~

8 ~~(A) Modify the borrower's loan to extend the term for the same~~  
9 ~~period as the length of the forbearance, with all payments that were~~  
10 ~~not made during the forbearance distributed at the same intervals~~  
11 ~~as the borrower's existing payment schedule and evenly distributed~~  
12 ~~across those intervals, with no penalties, late fees, additional~~  
13 ~~interest accrued beyond the amounts scheduled or calculated as if~~  
14 ~~the borrower made all contractual payments on time and in full~~  
15 ~~under the terms of the mortgage contract in effect at the time the~~  
16 ~~borrower entered into the forbearance, and with no modification~~  
17 ~~fee charged to the borrower, or~~

18 ~~(B) If the borrower elects to modify the loan to capitalize a~~  
19 ~~resulting impound account shortage or deficiency, the mortgage~~  
20 ~~servicer may modify the borrower's loan by reamortizing the total~~  
21 ~~unpaid principal balance and extending the term of the loan~~  
22 ~~sufficient to maintain the regular mortgage payments.~~

23 ~~(C) A mortgage servicer that claims investor guidelines or any~~  
24 ~~applicable law prohibits the mortgage servicers from implementing~~  
25 ~~a postforbearance reinstatement option described in subparagraphs~~  
26 ~~(A) and (B) shall notify the borrower and the Commissioner of~~  
27 ~~Business Oversight of the claim at the time of an offer of~~  
28 ~~forbearance. Failure to make that disclosure shall have the effect~~  
29 ~~of a designation by the servicer that it has the authority to~~  
30 ~~implement the provisions of this section. At the time of an offer~~  
31 ~~of forbearance, the servicer claiming such an exception shall~~  
32 ~~present documentation of the ground for the exception to the~~  
33 ~~borrower and the Commissioner of Business Oversight. The~~  
34 ~~Commissioner of Business Oversight shall develop a procedure~~  
35 ~~for reviewing and determining the validity of such exception~~  
36 ~~requests and an affected borrower shall have the opportunity to~~  
37 ~~participate in the review. Determinations by the Commissioner of~~  
38 ~~Business Oversight shall be subject to judicial review.~~

39 ~~(2) Notify the borrower in writing of the extension or~~  
40 ~~modification required by paragraph (1), including provision of a~~

1 new payment schedule and date of maturity, and that the borrower  
2 shall have the election of prepaying the suspended payments at  
3 any time, in a lump sum or otherwise.

4 (e) If the borrower is unable to return to making regular  
5 mortgage payments based on the evaluation required by subdivision  
6 (a):

7 (1) The mortgage servicer shall evaluate the borrower for all  
8 loan modification options, without regard to whether the borrower  
9 has previously requested, been offered, or provided a loan  
10 modification or other loss mitigation option and without any  
11 requirement that the borrower come current before that evaluation  
12 or as a condition of eligibility for the modification. A modification  
13 may include any of the following:

14 (A) Further extending the borrower’s repayment period.

15 (B) Reducing the principal balance of the loan.

16 (C) Any other modification or loss mitigation options available  
17 to the servicer under the terms of any investor requirements and  
18 existing laws and policies.

19 (2) If the borrower qualifies for a modification described in  
20 paragraph (1), the mortgage servicer shall implement the option,  
21 with no penalties, late fees, additional interest beyond the amounts  
22 scheduled or calculated as if the borrower made all contractual  
23 payments on time and in full under the terms of the mortgage  
24 contract in effect at the time the borrower entered into the  
25 forbearance, and with no modification fees charged to the borrower.

26 (d) If a mortgage servicer determines that a borrower does not  
27 qualify for a modification after the mortgage servicer conducts the  
28 evaluations required by this section, the mortgage servicer shall  
29 evaluate the borrower for all available nonhome retention loss  
30 mitigation options before considering any foreclosure acts upon  
31 the expiration of 180 days after the COVID-19 emergency.

32 3273.15. (a) Any notices or agreements required by this article  
33 shall be provided in the languages described in Section 1632.

34 (b) A mortgage servicer shall communicate about forbearance  
35 and loan modification options described in this article in the  
36 borrower’s preferred language when the mortgage servicer  
37 regularly communicates with the borrower in that language.

38 3273.16. Nothing in this article shall relieve a mortgage servicer  
39 of its obligations under Section 2923.5, 2923.55, 2923.6, 2923.7,  
40 2924.9, 2924.10, 2924.11, 2924.17, or 2924.18.



1 ~~3273.17. (a) The Legislature finds and declares that any duty~~  
2 ~~mortgage servicers may have to maximize net present value under~~  
3 ~~their pooling and servicing agreements is owed to all parties in a~~  
4 ~~loan pool, or to all investors under a pooling and servicing~~  
5 ~~agreement, not to any particular party in the loan pool or investor~~  
6 ~~under a pooling and servicing agreement, and that a mortgage~~  
7 ~~servicer acts in the best interests of all parties to the loan pool or~~  
8 ~~investors in the pooling and servicing agreement if it agrees to or~~  
9 ~~implements a forbearance, loan modification or workout plan for~~  
10 ~~which both of the following apply:~~

11 ~~(1) The loan is in payment default, or payment default is~~  
12 ~~reasonably foreseeable.~~

13 ~~(2) Anticipated recovery under the forbearance and loan~~  
14 ~~modification plan exceeds the anticipated recovery through~~  
15 ~~foreclosure on a net present value basis.~~

16 ~~(b) It is the intent of the Legislature that a mortgage servicer~~  
17 ~~offer a borrower a forbearance and loan modification or workout~~  
18 ~~plan if such a plan is consistent with the mortgage servicer's~~  
19 ~~contractual or other authority.~~

20 ~~3273.18. (a) (1) A mortgage servicer that violates any of the~~  
21 ~~requirements of this article shall forfeit any rights to commence a~~  
22 ~~foreclosure on a borrower that is harmed by the violation.~~

23 ~~(2) Notwithstanding paragraph (1), the mortgage servicer shall~~  
24 ~~have a right to cure any violation and reinstate their rights to~~  
25 ~~commence a foreclosure on the borrower. In order to cure the~~  
26 ~~violation, the mortgage servicer shall provide the borrower with~~  
27 ~~compensation, which may include refunds, forbearance, or any~~  
28 ~~other form of compensation, so that the borrower is returned to a~~  
29 ~~state similar to that which the borrower would have been if the~~  
30 ~~mortgage servicer did not violate this article.~~

31 ~~(b) A violation of any provision of this article shall be deemed~~  
32 ~~an unfair and deceptive business practice pursuant to Section 17200~~  
33 ~~of the Business and Professions Code. Such violations include,~~  
34 ~~but are not limited to, the following:~~

35 ~~(1) A false statement, misrepresentation, or concealment by a~~  
36 ~~mortgage servicer related to the availability of postforbearance~~  
37 ~~payment options.~~

38 ~~(2) A misrepresentation or concealment related to a requirement~~  
39 ~~that a borrower pay a lump sum at the end of a forbearance period.~~

1 ~~(3) A claim of a restriction placed on a mortgage servicer by an~~  
2 ~~investor that is not provided accurately or timely according to the~~  
3 ~~provisions of this article.~~

4 ~~(e) A violation of a provision of this article shall be deemed a~~  
5 ~~violation of the law pursuant to which a mortgage servicer is~~  
6 ~~licensed, and such a violation shall be subject to the enforcement~~  
7 ~~authority provided to the licensing agency by the licensing law.~~

8 ~~(d) A violation of Section 4022 of the federal CARES Act~~  
9 ~~(Public Law 116-136) shall be a violation of the state licensing~~  
10 ~~law pursuant to which a mortgage servicer is licensed.~~

11 ~~3273.19. (a) (1) If a trustee's deed upon sale has not been~~  
12 ~~recorded, a borrower may bring an action for injunctive relief to~~  
13 ~~enjoin a material violation of this article.~~

14 ~~(2) Any injunction shall remain in place and any trustee's sale~~  
15 ~~shall be enjoined until the court determines that the mortgage~~  
16 ~~servicer has corrected and remedied the violation or violations~~  
17 ~~giving rise to the action for injunctive relief. An enjoined entity~~  
18 ~~may move to dissolve an injunction based on a showing that the~~  
19 ~~material violation has been corrected and remedied.~~

20 ~~(b) After a trustee's deed upon sale has been recorded, a~~  
21 ~~mortgage servicer shall be liable to a borrower for actual economic~~  
22 ~~damages pursuant to Section 3281, resulting from a material~~  
23 ~~violation of this article by that mortgage servicer where the~~  
24 ~~violation was not corrected and remedied prior to the recordation~~  
25 ~~of the trustee's deed upon sale. If the court finds that the material~~  
26 ~~violation was intentional or reckless, or resulted from willful~~  
27 ~~misconduct by a mortgage servicer, the court may award the~~  
28 ~~borrower the greater of treble actual damages or statutory damages~~  
29 ~~of fifty thousand dollars (\$50,000).~~

30 ~~(e) No violation of this article shall affect the validity of a sale~~  
31 ~~in favor of a bona fide purchaser and any of its encumbrancers for~~  
32 ~~value without notice.~~

33 ~~(d) The rights, remedies, and procedures provided to borrowers~~  
34 ~~by this section are in addition to and independent of any other~~  
35 ~~rights, remedies, or procedures under any other law. Nothing in~~  
36 ~~this section shall be construed to alter, limit, or negate any other~~  
37 ~~rights, remedies, or procedures provided to borrowers by law.~~

38 ~~(e) A court may award a prevailing borrower reasonable~~  
39 ~~attorney's fees and costs in an action brought pursuant to this~~  
40 ~~section. A borrower shall be deemed to have prevailed for purposes~~

1 ~~of this subdivision if the borrower obtained injunctive relief or~~  
2 ~~was awarded damages pursuant to this section.~~

3 3273.12. *A borrower receiving a forbearance under this article*  
4 *with respect to a mortgage secured by a dwelling that has a tenant,*  
5 *whether or not the borrower also lives in the dwelling, shall*  
6 *provide the tenant with rent relief for a period of not less than the*  
7 *period covered by the forbearance.*

8 3273.13. *(a) No later than 30 days before the end of any*  
9 *forbearance period that has not been extended or 30 days after a*  
10 *request by a borrower to terminate the forbearance, a mortgage*  
11 *servicer shall notify the borrower of their options to modify their*  
12 *loan or reinstate the mortgage account to current status in a*  
13 *manner that does not do any of the following:*

14 *(1) Require the borrower to make a lump-sum reinstatement*  
15 *payment prior to the mortgage loan's maturity date.*

16 *(2) Increase the borrower's preforbearance monthly principal*  
17 *and interest payment except subject to any adjustment of the*  
18 *applicable index pursuant to the terms of an adjustable rate*  
19 *mortgage.*

20 *(b) Within 30 days of providing the notification required by*  
21 *subdivision (a), the mortgage servicer shall provide the borrower*  
22 *with a written notice that does all of the following:*

23 *(1) Describes the terms of any loan modification or other*  
24 *reinstatement options available to the borrower, including any*  
25 *new payment schedule, new balance, or new date of maturity.*

26 *(2) Informs the borrower that they have the option of prepaying*  
27 *the outstanding balance or any portion thereof at any time, in a*  
28 *lump sum or otherwise.*

29 *(3) Clearly explains to the borrower the process for electing a*  
30 *loan modification or other reinstatement option that is available*  
31 *to the borrower.*

32 *(4) Advises the borrower to contact the mortgage servicer if*  
33 *they cannot resume making their preforbearance mortgage*  
34 *payments.*

35 *(c) A mortgage servicer that claims investor guidelines or any*  
36 *applicable law prohibits the mortgage servicer from implementing*  
37 *a postforbearance option that complies with subdivision (a) shall*  
38 *notify the borrower and the Commissioner of Business Oversight*  
39 *of the claim at the time of an offer of forbearance. Failure to make*  
40 *that disclosure shall have the effect of a designation by the servicer*

1 *that it has the authority to implement the provisions of this section.*  
2 *At the time of an offer of forbearance, the servicer claiming that*  
3 *exception shall present documentation of the ground for the*  
4 *exception to the borrower and the Commissioner of Business*  
5 *Oversight. The Commissioner of Business Oversight shall develop*  
6 *a procedure for reviewing and determining the validity of those*  
7 *exception requests and an affected borrower or their designated*  
8 *agent shall have the opportunity to participate in the review.*  
9 *Determinations by the Commissioner of Business Oversight shall*  
10 *be subject to judicial review.*

11 *(d) (1) Notwithstanding subdivision (g) of Section 2923.6 or*  
12 *any other law or regulation, if the borrower notifies the mortgage*  
13 *servicer, pursuant to paragraph (4) of subdivision (b), that they*  
14 *are not able to resume making their preforbearance mortgage*  
15 *payments, the mortgage servicer shall evaluate the borrower for*  
16 *all loss mitigation and foreclosure prevention options available*  
17 *to the borrower under the terms of any investor requirements and*  
18 *existing federal or state laws, policies, or agency guidance, without*  
19 *regard to whether the borrower has previously requested, been*  
20 *offered, or provided a loan modification or other loss mitigation*  
21 *option and without any requirement that the borrower bring the*  
22 *account current before that evaluation or as a condition of*  
23 *eligibility.*

24 *(2) If the borrower qualifies for an option described in*  
25 *paragraph (1), the mortgage servicer shall implement the option,*  
26 *with no penalties or late fees, and with no modification fees*  
27 *charged to the borrower. The mortgage servicer shall not charge*  
28 *additional interest beyond the amounts scheduled or calculated*  
29 *as if the borrower made all contractual payments on time and in*  
30 *full under the terms of the mortgage contract in effect at the time*  
31 *the borrower entered into the forbearance, except to the extent*  
32 *that interest is charged after the modification on any arrears that*  
33 *are capitalized into the new balance of a modified loan.*

34 *(e) Any mortgage servicer, mortgagee, or beneficiary of the*  
35 *deed of trust, or authorized agent thereof, who, with respect to a*  
36 *borrower of a federally backed loan, complies with the guidance*  
37 *to mortgagees regarding borrower options following a*  
38 *COVID-19-related forbearance provided by the Federal National*  
39 *Mortgage Association, the Federal Home Loan Mortgage*  
40 *Corporation, the Federal Housing Administration of the United*

1 *States Department of Housing and Urban Development, the United*  
2 *States Department of Veterans Affairs, or the Rural Development*  
3 *division of the United States Department of Agriculture, including*  
4 *any amendments, updates, or revisions to that guidance, shall be*  
5 *deemed to be in compliance with this section.*

6 3273.14. *If a borrower does not qualify for an option described*  
7 *in Section 3273.13, the mortgage servicer may pursue foreclosure*  
8 *acts after the expiration of the covered period to the extent that*  
9 *those acts comply with relevant state law, including, but not limited*  
10 *to, Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10,*  
11 *2924.11, 2924.17, and 2924.18.*

12 3273.15. *It is the intent of the Legislature that a mortgage*  
13 *servicer offer a borrower a postforbearance loss mitigation option*  
14 *plan that is consistent with the mortgage servicer's contractual*  
15 *or other authority.*

16 3273.16. *A mortgage servicer shall not mislead or make*  
17 *misrepresentations to a borrower regarding any of the following:*

18 (a) *Options for forbearance provided by state or federal law or*  
19 *otherwise provided or available through the servicer.*

20 (b) *Options for repayment after a forbearance period ends*  
21 *provided by state or federal law or otherwise provided or available*  
22 *through the servicer.*

23 3273.17. *A mortgage servicer shall communicate about*  
24 *forbearance and loan modification options described in this article*  
25 *in the borrower's preferred language when the mortgage servicer*  
26 *regularly communicates with the borrower in that language.*

27 3273.18. (a) *A violation of this article shall be deemed a*  
28 *violation of the law pursuant to which a mortgage servicer is*  
29 *licensed, and that violation shall be subject to the enforcement*  
30 *authority provided to the licensing agency by the licensing law.*

31 (b) *A borrower who is harmed by a violation of this article may*  
32 *bring an action to obtain injunctive relief, damages, restitution,*  
33 *and any other remedy to redress the violation.*

34 (c) *A court shall award a prevailing borrower reasonable*  
35 *attorney's fees and costs in any action based on any violation of*  
36 *this article in which injunctive relief against a sale, including a*  
37 *temporary restraining order, is granted. A court may award a*  
38 *prevailing borrower reasonable attorney's fees and costs in an*  
39 *action for a violation of this article in which relief is granted but*  
40 *no injunctive relief against a sale is granted.*

1     (d) *The rights, remedies, and procedures provided to borrowers*  
 2 *by this section are in addition to and independent of any other*  
 3 *rights, remedies, or procedures under any other law. This section*  
 4 *shall not be construed to alter, limit, or negate any other rights,*  
 5 *remedies, or procedures provided to borrowers by law.*  
 6     (e) *A violation of Section 4022 of the federal CARES Act (Public*  
 7 *Law 116-136) shall be a violation of the state licensing law*  
 8 *pursuant to which a mortgage servicer is licensed.*  
 9     3273.19. *Any waiver by a borrower of the provisions of this*  
 10 *article is contrary to public policy and shall be void.*

11  
 12                     Article 2. Multifamily Mortgage Loans  
 13

14     3273.20. (a) A multifamily borrower may submit a request  
 15 for forbearance to the borrower’s mortgage servicer, either orally  
 16 or in writing, affirming that the multifamily borrower is  
 17 experiencing hardship during the COVID-19 emergency.  
 18     (b) A multifamily borrower shall have the option to discontinue  
 19 the forbearance at any time.  
 20     3273.21. Upon receipt of an oral or written request for  
 21 forbearance from a multifamily borrower, a mortgage servicer  
 22 shall request documentation of the financial hardship, provide the  
 23 forbearance for not less than 180 days, and provide the forbearance  
 24 for an additional 180 days upon the request of the borrower at least  
 25 30 days prior to the end of the initial forbearance period.  
 26     3273.22. During the term of forbearance under this article, a  
 27 multifamily borrower shall provide rent relief to any tenants living  
 28 in the property that secures the mortgage and may not evict a tenant  
 29 for nonpayment of rent or apply or accrue any fees or other  
 30 penalties on renters for nonpayment of rent.  
 31     3273.23. A multifamily borrower shall bring a loan placed in  
 32 forbearance under this article current within the earlier of 12  
 33 months after the conclusion of the forbearance period or within  
 34 10 days of the receipt by the multifamily borrower of any business  
 35 interruption insurance proceeds.  
 36     3273.24. A mortgage servicer of a federally backed multifamily  
 37 mortgage loan that complies with Section 4023 of the federal  
 38 CARES Act (Public Law 116-136) shall be deemed to be in  
 39 compliance with this article.

1 CHAPTER 3. VEHICLE-SECURED CREDIT OBLIGATIONS

2  
3 3273.30. ~~A-Except as provided in Section 3273.31, a servicer~~  
4 of vehicle-secured credit may not take any action *to use self-help*  
5 to repossess the mobilehome or motor vehicle that secures a ~~loan~~  
6 ~~during the COVID-19 emergency and for the 180-day period~~  
7 ~~following that emergency, vehicle-secured credit obligation~~  
8 *pursuant to paragraph (2) of subdivision (b) of Section 9609 of*  
9 *the California Commercial Code, including providing a verbal or*  
10 *written notice of intent to repossess the mobilehome or motor*  
11 ~~vehicle. vehicle, until January 1, 2023. This provision shall not~~  
12 *prohibit a servicer of vehicle-secured credit from proceeding to*  
13 *take possession of collateral pursuant to judicial process under*  
14 *paragraph (1) of subdivision (b) of Section 9609 of the California*  
15 *Commercial Code.*

16 ~~3273.31. (a) If a servicer of vehicle-secured credit complies~~  
17 ~~with all provisions of this section, the servicer may proceed with~~  
18 ~~a repossession of a mobilehome or motor vehicle that secures a~~  
19 ~~vehicle-secured credit obligation due to a consumer failing to make~~  
20 ~~a scheduled payment pursuant to the vehicle-secured credit~~  
21 ~~obligation.~~

22 3273.31. (a) *A servicer of vehicle-secured credit may proceed*  
23 *with self-help repossession pursuant to paragraph (2) of*  
24 *subdivision (b) of Section 9609 of the California Commercial Code*  
25 *if any of the following apply:*

26 (1) *The consumer is in default for failure to maintain required*  
27 *insurance for the collateral.*

28 (2) *The collateral has been impounded for more than 30 days.*

29 (3) *The servicer of vehicle-secured credit complies with*  
30 *subdivisions (c) to (e), inclusive.*

31 (b) ~~During the COVID-19 emergency, covered period, a~~  
32 *consumer may request forbearance from a vehicle-secured credit*  
33 *obligation by submitting a request to the servicer of the*  
34 *vehicle-secured credit, either orally or in writing, affirming that*  
35 *the consumer is experiencing a financial hardship that prevents*  
36 *the consumer from making timely payments on the vehicle-secured*  
37 *credit obligation due, directly or indirectly, to the COVID-19*  
38 *emergency.*

39 (c) *Pursuant to a consumer submitting a request described in*  
40 *subdivision (b), a servicer of vehicle-secured credit may require*

1 the consumer to provide a written attestation subject to the  
2 following requirements:

3 (1) The attestation shall include only the following text: “I,  
4 [consumer name], attest that I am experiencing a financial hardship  
5 that prevents me from making timely payments on my  
6 vehicle-secured credit obligation due, directly or indirectly, to the  
7 COVID-19 emergency.”

8 (2) The servicer shall notify the consumer of the attestation  
9 requirement and provide clear directions for how the attestation  
10 shall be delivered to the servicer.

11 (3) The servicer shall provide forbearance for a period of no  
12 less than 30 days before canceling the forbearance due to a  
13 consumer failing to provide the attestation required by the servicer.

14 (4) The servicer shall not require the consumer to provide any  
15 additional information or documentation besides the attestation  
16 described in paragraph ~~(1)~~ (1).

17 (d) A servicer of vehicle-secured credit shall provide the  
18 forbearance requested pursuant to subdivision ~~(a)~~ by the consumer  
19 for a period of *at least* 90 days. If the consumer affirms that they  
20 continue to experience hardship within the 30 days prior to the  
21 expiration of the initial forbearance period, the servicer of  
22 vehicle-secured credit shall extend the forbearance period upon  
23 request of the consumer for an additional 90 days. Those  
24 forbearance periods shall continue to be extended upon request of  
25 the consumer up to a cumulative total of 270 days of forbearance.  
26 *If the servicer provided forbearance voluntarily to the consumer*  
27 *during the period starting on March 4, 2020, and ending on the*  
28 *date that this title becomes operational, the servicer may deduct*  
29 *the number of days during which the forbearance was provided*  
30 *voluntarily from the cumulative total of 270 days required by this*  
31 *paragraph.*

32 (e) During the period of a forbearance under this chapter, a  
33 servicer of vehicle-secured credit may assess, accrue, or apply to  
34 a consumer’s account a rate of interest of up to 7 percent per  
35 annum, but shall not assess, accrue, or apply to a consumer’s  
36 account any additional fees, penalties, or interest beyond the  
37 amounts scheduled or calculated as if the consumer made all  
38 contractual payments on time and in full under the terms of the  
39 vehicle-secured credit obligation contract in effect at the time the  
40 consumer enters into the forbearance.



1 3273.32. (a) Before the completion of a forbearance period  
2 provided by this article, the holder of a vehicle-secured credit  
3 obligation shall evaluate a consumer's ability to return to making  
4 regular payments.

5 (b) If the consumer is able to return to making regular payments  
6 based on the evaluation required by subdivision (a), the holder of  
7 the vehicle-secured credit obligation shall:

8 (1) Modify the consumer's vehicle-secured credit obligation to  
9 extend the term for the same period as the length of the forbearance,  
10 with all payments that were not made during the forbearance  
11 distributed at the same intervals as the consumer's existing payment  
12 schedule and evenly distributed across those intervals, with no  
13 penalties, late fees, or additional interest accrued beyond the  
14 amounts scheduled or calculated as if the consumer made all  
15 contractual payments on time and in full under the terms of the  
16 vehicle-secured credit obligation contract in effect at the time the  
17 consumer entered into the forbearance, and with no modification  
18 fee charged to the consumer.

19 (2) Notify the borrower in writing of the modification required  
20 by paragraph (1), including provision of a new payment schedule  
21 and date of maturity, and that the consumer shall have the election  
22 of prepaying the suspended payments at any time, in a lump sum  
23 or otherwise.

24 (3) Not require the consumer to waive any other claim provided  
25 by law in order to accept the terms of a modification.

26 3273.33. A repossession of a mobilehome or motor vehicle by  
27 a servicer of a vehicle-secured credit obligation that has failed to  
28 comply with all the provisions of this chapter shall constitute an  
29 acceptance of the collateral in full satisfaction of the  
30 vehicle-secured credit obligation as provided by Section 9620 of  
31 the Commercial Code.

32 3273.34. *Any waiver by a borrower of the provisions of this*  
33 *article is contrary to public policy and shall be void.*

34 ~~3273.34.~~

35 3273.35. The provisions of this title are severable. If any  
36 provision of this title or its application is held invalid, that  
37 invalidity shall not affect other provisions or applications that can  
38 be given effect without the invalid provision or application.

39 SEC. 3. Section 23039 is added to the Financial Code, to read:

1 23039. (a) Notwithstanding any other provision of this  
2 division, the following shall apply during the COVID-19  
3 emergency and the 180-day period following such emergency:

4 (1) A fee for a deferred deposit transaction shall not exceed 5  
5 percent of the face amount of the check.

6 (2) A licensee shall offer a customer the option to enter into a  
7 payment plan that provides an extension of time for repayment of  
8 an existing deferred deposit transaction. The payment plan shall  
9 include the following terms:

10 (A) The plan shall not contain any additional fee or charge of  
11 any kind.

12 (B) The plan shall provide the customer with the option to repay  
13 the outstanding amount of the existing deferred deposit transaction  
14 over a 60-day period in four equal installments.

15 (3) At least three days prior to the date to which deposit of check  
16 has been deferred (due date) according to the agreement provided  
17 by the licensee to the customer pursuant to subdivision (e) of  
18 Section 23035, a licensee shall notify a customer of their option  
19 to enter into a payment plan pursuant to paragraph-(1): (2). If at  
20 any time, the customer attempts to pay the licensee for an  
21 outstanding amount of an existing deferred deposit transaction,  
22 the licensee shall immediately notify the customer of their option  
23 to enter into a payment plan pursuant to paragraph-(1): (2).

24 (4) A licensee shall not enter into a deferred deposit transaction  
25 with a customer within 14 days of the customer fully repaying a  
26 previous transaction.

27 (5) A licensee shall not charge any ~~late~~ fee for the return of a  
28 dishonored check *or a notice of insufficient funds* by a depository  
29 institution in a deferred deposit transaction.

30 (b) For the purposes of this section, “COVID-19 emergency”  
31 means the period that begins upon the date of the enactment of  
32 this section and ends on the date that the state declares the  
33 emergency related to the COVID-19 disease has ended.

34 SEC. 4. The provisions of this act are severable. If any  
35 provision of this act or its application is held invalid, that invalidity  
36 shall not affect other provisions or applications that can be given  
37 effect without the invalid provision or application.

38 SEC. 5. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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