



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
June 30, 2020

To: Honorable Mayor and Members of the City Council
From: Councilmember Susan Wengraf
Subject: Support for AB-2501 COVID-19: Homeowner, Tenant, and Consumer relief

RECOMMENDATION

Adopt a Resolution in support of AB-2501: Homeowner, Tenant and Consumer Relief (Limón). Send a copy of the Resolution to Assemblymembers Limón, Skinner and Wicks and Governor Newsom.

AB-2501 provides for temporary forbearance and affordable post-forbearance repayment options for borrowers facing financial hardship during the COVID-19 emergency and 180 days thereafter, related to mortgages and vehicle financing. Tenants experiencing financial hardship would receive rent relief (deferment) and evictions would be prohibited, during the life of the mortgage forbearance.

FINANCIAL IMPLICATIONS

No financial implications to send resolution to Legislators.

BACKGROUND

The COVID-19 pandemic has severely shocked our state economy. Unemployment claims have reached unprecedented levels over the last three months, and the metric does not reflect the economic damage caused by salary and wage reductions that are not accounted for in unemployment data or the loss of income received by small business owners. This bill seeks to address the immediate threat to the financial well-being and health of California families.

AB-2501 (Limón) would provide a temporary reprieve from payment obligations related to mortgages, car loans, and payday loans. This bill does not cancel or forgive any scheduled payment obligation; rather, it provides a way for borrowers to defer payment to a later date when the immediate impacts of the pandemic have subsided. This bill would give California families a chance to weather the current storm without losing their homes and vehicles or ruining their financial well-being.

Specifically, AB-2501 would provide 18 months of forbearance, with possible extension, to homeowners and multifamily owners who are experiencing financial hardship due to COVID-19. The bill would require the multifamily borrower to provide rent relief (deferment) to tenants living on the property for the length of the forbearance. A

homeowner receiving forbearance would also be required to provide rent relief to tenants, if any, living in their home. Evictions would be prohibited during the forbearance period.

The bill also prohibits loan servicers of vehicle-secured credit from taking any action to repossess a mobile home or motor vehicle that secures a loan during the COVID-19 emergency and for 180 days after. It would require loan-servicers to provide 90 days forbearance to consumers who request it because they are experiencing financial hardship due to COVID-19. Servicers can apply up to 7% annual interest but cannot apply additional fees or penalties.

ENVIRONMENTAL SUSTAINABILITY

Keeping people housed in their homes is essential to the wellbeing of our environment

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Resolution

2: [AB-2501](#)

RESOLUTION NO. ##,###-N.S.

CITY OF BERKELEY SUPPORTS AB-2501

WHEREAS, The City of Berkeley's Public Health Officer, along with six SF Bay Area Counties, issued a stay at home order beginning March 17, 2020 to protect residents from contracting and spreading COVID-19; and

WHEREAS, that effective and necessary action, also taken by the Governor two days later, devastated Berkeley residents', and all Californians', ability to work, resulting in greater than 20 percent unemployment in the state; and

WHEREAS, AB-2501 seeks to address the immediate threat to the financial well-being and health of California families; and

WHEREAS, AB-2501 would provide 18 months of mortgage forbearance, with possible extension, to homeowners and multifamily owners who are experiencing financial hardship due to COVID-19; and

WHEREAS, AB-2501 would require borrowers who receive forbearance to provide rent relief (deferment) to tenants living on the property, as well as prohibit evictions for the length of the forbearance; and

WHEREAS, AB-2501 also prohibits loan servicers of vehicle-secured credit from taking any action to repossess a mobile home or motor vehicle that secures a loan during the COVID-19 emergency and for 180 days after.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it stands in full support of AB-2501 and commends Assemblymember Monique Limón for developing the legislation.

AMENDED IN ASSEMBLY JUNE 4,
2020

AMENDED IN ASSEMBLY MAY 11,
2020

california legislature—2019–20 regular session

ASSEMBLY BILL

No. 2501

Introduced by Assembly Member Limón

February 19, 2020

An act to add Title 19 (commencing with Section 3273.01) to Part 4 of Division 3 of the Civil Code, and to add ~~Sections 22698 and 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, from taking specified actions during the COVID-19 emergency and the 180-day period

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following the emergency. 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. 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 ~~or the 180 days thereafter~~, to seek *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 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 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

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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 reinstatement to

notify the Commissioner of Business Oversight, as specified, and to present documentation, in accordance with procedures developed by the commissioner, 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 options, and, if the borrower qualifies, to implement the option with no penalties, late fees, or additional interest beyond specified scheduled amounts. The bill would also require 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.

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.

The bill, with respect to multifamily mortgage loans, would authorize a borrower to submit a request for forbearance to the borrower's mortgage servicer, 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

repossess a mobilehome or motor vehicle that secures a loan during the COVID-19 emergency and for the 180-day period thereafter. The bill would authorize a consumer experiencing a financial hardship during the COVID-19 emergency to request forbearance from any vehicle-secured credit obligation, ~~regardless of delinquency status, obligation~~ by submitting a request to the servicer of vehicle-secured credit, affirming that the ~~borrower-consumer~~ is experiencing hardship. The bill would require a servicer of vehicle-secured credit to provide the forbearance requested for a period of 90 days, and to extend the forbearance period upon request, if the ~~borrower-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 ~~borrower's-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. ~~The bill would also provide that a deficiency judgment shall not lie after the sale or disposition of a mobilehome or motor vehicle for failure by a consumer to make a payment after the sale or other disposition of a mobilehome or motor vehicle for failure by a consumer to make a payment that was due during the COVID-19 emergency or the 180-day period following the emergency unless the servicer of the vehicle-secured credit obligation has complied with these provisions. 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) ~~Existing law, commonly known as the Property Assessed Clean Energy (PACE) program, authorizes public agency officials and property owners, as provided, to enter into voluntary contractual assessments, known as PACE assessments, to finance the installation of distributed~~

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~~generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property.~~

~~Existing law, the California Financing Law (CFL), requires a program administrator who administers a PACE program on behalf of, and with the written consent of, a public agency to comply with specified requirements relating to the PACE program. Existing law requires a program administrator to be licensed by the Commissioner of Business Oversight under the CFL.~~

~~This bill would require a program administrator, during the COVID-19 emergency and the 180-day period thereafter, within 60 days after enactment of this bill, to notify each property owner with an outstanding assessment contract that the property owner is entitled to forbearance on the next annual PACE assessment owed pursuant to the assessment contract, if the property owner is facing a financial hardship due to the COVID-19 emergency. The bill would require the notification to specify how the property owner may elect to accept the offer of forbearance and would require a program administrator to provide forbearance on the next annual PACE assessment owed by a property owner that accepts such an offer. The bill would permit a program administrator under these circumstances to require the property owner to pay the amount of the forborne PACE assessment in the year following the scheduled end of the assessment contract and would prohibit a program administrator from charging additional fees or interest related to the forborne PACE assessment. The bill would also prohibit a program administrator from exercising any contractual rights of acceleration related to unpaid assessments during the COVID-19 emergency.~~

~~(3)~~

~~(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~~

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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
19 Newsom
20 issued a stay at home order to protect the health and well-
21 being of
22 all Californians and to establish consistency across the
23 state in
24 order to slow the spread of the virus.
25 (f) Due to the voluntary and mandatory actions by
26 Californians
27 to slow the spread of COVID-19, economic activity in the
state
has fallen precipitously.
25 (g) In the seven weeks prior to May 1, 2020,
approximately
26 3,900,000 California workers filed claims for
unemployment
27 benefits, which represents 20 percent of the state's workforce.

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1 (h) The economic hardships brought on by the
2 COVID-19
3 pandemic mean that many California individuals and
4 households
5 are likely to have difficulty remaining current on monthly
6 debt
7 obligations through no fault of their own.
8 (i) Temporary forbearance benefits not only borrowers, but
9 also
10 other creditors by avoiding downward collateral price
11 spirals
12 triggered by an increase in foreclosure or repossession
13 activity.
14 (j) Without forbearance, many borrowers are unlikely to
15 pay
16 their obligations according to their original terms and are
17 likely to
18 default on obligations or file for bankruptcy, resulting in
19 reduced
20 recoveries for creditors, and in the case of bankruptcy, no
21 recovery
22 of unaccrued interest.
23 (k) With forbearance, creditors are likely to realize
24 greater
25 long-term value because borrowers will be more likely to
26 repay
27 their obligations after the major disaster or emergency has
subsided.

16 (l) Ensuring that homeowners and tenants are able to
17 remain in
18 their residences helps to minimize the spread of the
19 novel
20 coronavirus and protects the public health.

21 (m) Providing forbearance and an opportunity to repay
22 amounts
23 owed after the emergency subsidies will position
24 California
25 consumers, households, and businesses for a stronger
26 economic
27 recovery than the state would otherwise realize if no action
28 were
29 taken.

30 (n) Without emergency action to prevent it, delinquent
31 loan
32 payments will likely lead to mass foreclosures, evictions,
33 and
34 repossessions that will harm the health, safety, and
welfare of
Californians today and for years after the pandemic ends.

35 (o) The Legislature hereby finds and declares that
36 there is a
37 current and immediate threat to the public health,
38 safety, and
39 welfare and a need for immediate preservation of the public
40 peace,
41 health, or safety that warrants this urgency legislation,
42 which
43 finding is based upon the facts stated in the recitals above.

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

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1 TITLE 19. COVID-19 HOMEOWNER, TENANT, AND
2 CONSUMER RELIEF LAW OF 2020
3

4 Chapter 1. Title and Definitions
5

6 3273.01. This title is known and may be cited as
7 the
8 “COVID-19 Homeowner, Tenant, and Consumer Relief
9 Law of 2020.”

9 3273.1. For purposes of this title, the following
definitions

10 apply:

11 (a) "Borrower" means any natural person who is a mortgagor
12 or trustor and who is potentially eligible for any federal, state, or
13 proprietary foreclosure prevention alternative program offered by,
14 or through, the borrower's mortgage servicer. "Borrower" shall
15 not include any of the following:

16 (1) An individual who has surrendered the secured property as
17 evidenced by either a letter confirming the surrender or delivery
18 of the keys to the property to the mortgagee, trustee, beneficiary,
19 or authorized agent.

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

24 (b) "Consumer" means a person obligated to repay a
25 vehicle-secured credit obligation.

26 (c) "COVID-19 emergency" means the period that begins upon
27 the date of the enactment of this title and ends on the date that the
28 state declares the emergency related to the COVID-19 disease has
29 ended.

30 (d) "Impound account" means a type of account for payment
31 of taxes on real property, insurance premiums, or other purposes
32 relating to the property. Such an account may be structured as an
33 impound, trust, or other type of account.

34 (e) "Mobilehome" means a structure designed for human
35 habitation and for being moved on a street or highway under permit
36 pursuant to Section 35790 of the Vehicle Code. Mobilehome
37 includes a manufactured home, as defined in Section 18007 of the
38 Health and Safety Code, and a mobilehome, as defined in Section
39 18008 of the Health and Safety Code, but, except as provided in
40 subdivision (b), does not include a recreational vehicle, as defined

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1 in Section 799.29 of this code and Section 18010 of the
Health
2 and Safety Code or a commercial coach as defined in
Section
3 18001.8 of the Health and Safety Code.

4 (f) "Mortgage servicer" means a person or entity who
directly
5 services a loan, or who is responsible for interacting with
the
6 borrower, managing the loan account on a daily basis
including
7 collecting and crediting periodic loan payments, managing

any
 8 escrow account, or enforcing the note and security instrument,
 9 either as the current owner of the promissory note or as the current
 10 owner’s authorized agent. “Mortgage servicer” also means a
 11 subservicing agent to a master servicer by contract. “Mortgage
 12 servicer” shall not include a trustee, or a trustee’s authorized agent,
 13 acting under a power of sale pursuant to a deed of trust.
 14 (g) “Motor vehicle” means a vehicle required to be registered
 15 under the Vehicle Code that is bought for use primarily for personal
 16 or family purposes, and does not mean any vehicle that is bought
 17 for use primarily for business or commercial purposes or a
 18 mobilehome, as defined in Section 18008 of the Health and Safety
 19 Code that is sold on or after July 1, 1981. “Motor vehicle” does
 20 not include any trailer that is sold in conjunction with a vessel and
 21 that comes within the definition of “goods” under Section 1802.1.
 22 (h) “Multifamily borrower” means a borrower of a residential
 23 mortgage loan that is secured by a lien against a property
 24 comprising five or more dwelling units.
 25 (i) “Servicer of vehicle-secured credit” means either:
 26 (1) The entity that is servicing the vehicle-secured credit
 27 obligation for the holder.
 28 (2) The holder, if it is servicing the obligation.
 29 (j) “Vehicle-secured credit obligation” means *a form of credit*
 30 *owed by a natural person, not to include artificial entities, such*
 31 *as partnerships, corporations, trusts, estates, cooperatives,*
 32 *associations or entities created by statute, such as governmental*
 33 *agencies, that is either:*
 34 (1) A loan for ~~personal, family, or household purposes~~ that is
 35 secured by a mobilehome or motor vehicle.
 36 (2) A conditional sale contract as defined by subdivision (a) of
 37 Section 2981.
 38 3273.2. (a) The provisions of this title apply to specified
 39 obligations, as follows:

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1 (1) Article 1 (commencing with Section 3273.10) of
 2 Chapter 2
 3 shall apply to a mortgage or deed of trust that is
 4 secured by
 5 residential property containing no more than four dwelling
 6 units.
 7 (2) Article 2 (commencing with Section 3273.20) of
 8 Chapter 2
 9 shall apply to a mortgage or deed of trust that is
 10 secured by
 11 residential property containing five or more dwelling units.

7 (3) Chapter 3 (commencing with Section 3273.30) shall
 8 apply
 9 to a vehicle-secured credit obligation that was outstanding
 10 as of
 11 the enactment of this title.
 12 (b) Notwithstanding subdivision (a), Chapter 3 shall apply to
 13 all nonpurchase money loans where the lender obtains a security
 14 interest in a motor vehicle.
 15 (b)
 16 (c) The provisions of this title apply to the specified persons,
 17 as follows:
 18 (1) Chapter 2 (commencing with Section 3273.10) shall apply
 19 to a depository institution chartered under federal or state law, a
 20 person licensed pursuant to Division 9 (commencing with Section
 21 22000) or Division 20 (commencing with Section 50000) of the
 22 Financial Code, or a person licensed pursuant to Part 1
 23 (commencing with Section 10000) of Division 4 of the Business
 24 and Professions Code.
 25 (2) Chapter 3 (commencing with Section 3273.30) shall apply
 26 to a holder of a conditional sales contract as defined by the
 27 Automobile Sales Finance Act (Chapter 2b (commencing with
 28 Section 2981) of Title 14), ~~a person licensed pursuant to covered~~
 29 ~~by the licensing requirements of~~ Division 9 (commencing with
 30 Section 22000) of the Financial Code, or a depository institution
 31 chartered under federal or state
 32 law.

Chapter 2. Mortgages

32

33 Article 1. Residential Mortgage Loans

34

35 3273.10. (a) A mortgage servicer, mortgagee, trustee,
 36 beneficiary, or authorized agent shall not do any of the following
 37 during the COVID-19 emergency and the 180-day period following
 38 that emergency:
 39 (1) Commence or continue any judicial foreclosure action.
 40 (2) Record a notice of default pursuant to Section 2924.

1 (3) Take any action to evict a person following a
 2 foreclosure.
 3 (b) A mortgage servicer, mortgagee, trustee,
 4 beneficiary, or
 5 authorized agent shall stay all foreclosure proceedings and
 6 time

4 limits in a judicial or nonjudicial foreclosure on a property
5 during
6 the COVID-19 emergency and the 180-day period following
7 that
8 emergency. All time periods established under the state
9 foreclosure
10 law for a borrower to respond, cure a default, redeem, or
11 take any
12 action shall be stayed during the COVID-19 emergency and
13 the
14 180-day period following that emergency.

15 (c) This section does not apply to a mortgage that is
16 secured by
17 a dwelling that the mortgage servicer, mortgagee,
18 trustee,
19 beneficiary, or authorized agent has determined, after
20 exercising
21 reasonable diligence, is vacant or abandoned.

22 ~~3273.11. (a) A borrower experiencing a financial
23 hardship
24 during the COVID-19 emergency or the 180 days following
25 that
26 emergency may request forbearance from any mortgage
27 obligation,
28 regardless of delinquency status, by submitting a request
29 to the
30 borrower's mortgage servicer, either orally or in writing,
31 affirming
32 that the borrower is experiencing hardship during the
33 COVID-19
34 emergency. A borrower shall not be required to provide
35 any
36 additional documentation to receive a forbearance.~~

37 *3273.11. (a) During the COVID-19 emergency, a
38 borrower
39 may request forbearance from any mortgage
40 obligation by
41 submitting a request to the borrower's mortgage servicer,
42 either
43 orally or in writing, affirming that the borrower is
44 experiencing
45 a financial hardship that prevents the borrower from making
46 timely
47 payments on the mortgage obligation due, directly or
48 indirectly,
49 to the COVID-19 emergency.*

50 *(b) Pursuant to a borrower submitting a request for
51 forbearance,
52 a mortgage servicer may require the borrower to provide a
53 written
54 attestation subject to the following requirements:
55 (1) The attestation shall include only the following text:*

26 whether or not the borrower also lives in the dwelling, shall provide
27 the tenant with rent relief for a period of not less than the period
28 covered by the forbearance.

29 3273.12. (a) Notwithstanding any other state law governing
30 forbearance relief, during the COVID-19 emergency, a mortgage
31 servicer shall automatically grant a borrower who is or becomes
32 60 days or more delinquent on a mortgage obligation a 180-day
33 forbearance, which may be extended upon request of the borrower
34 for an additional 180 days. Such a borrower may elect to continue
35 making regular payments by notifying their mortgage servicer of
36 their election.

37 (b) Upon placing a mortgage obligation in forbearance pursuant
38 to subdivision (a), a mortgage servicer shall provide the borrower
39 written notification of the forbearance terms, including treatment
40 of payments to an impound account during the forbearance period,

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1 and a complete and accurate description of the loss
mitigation and
2 reinstatement options that will be available to the borrower at
the
3 end of the forbearance period.

4 (c) Any payments made by the borrower during the
forbearance
5 period shall be credited to the borrower's account in
accordance

6 with Section 129F of the Truth in Lending Act (15 U.S.C.
Sec.

7 1639f) or as the borrower may otherwise instruct that is
consistent

8 with the terms of the mortgage loan contract.

9 3273.13. (a) Upon receiving a request for forbearance
from a

10 borrower under Section 3273.11 or placing a borrower in automatic
11 forbearance under Section 3273.12, a mortgage servicer shall
12 provide the forbearance for not less than 180 days, and an
13 additional 180 days at the request of the borrower, provided that
14 the borrower will have the option to discontinue the forbearance
15 at any time.

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

23 (c) If a borrower in forbearance under this article is required to
24 make payments to an impound account, the mortgage servicer shall

25 pay or advance the disbursements on or before any relevant
26 deadlines to avoid a penalty, regardless of the status of the
27 borrower's payments. The mortgage servicer may collect any
28 resulting shortage or deficiency in the impound account from the
29 borrower after the forbearance period ends in any of the following
30 manners at the borrower's election:

- 31 (1) In a lump sum.
- 32 (2) Amortized over 60 months.
- 33 (3) Capitalized into the loan.

34 3273.14. (a) Before the completion of a forbearance period
35 provided by this article, a mortgage servicer shall evaluate the
36 borrower's ability to return to making regular mortgage payments.

37 (b) If the borrower is able to return to making regular mortgage
38 payments based on the evaluation required by subdivision (a), the
39 mortgage servicer shall:

- 40 (1) Either:

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

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

29 (C) A mortgage servicer that claims investor guidelines
30 or any

17 applicable law prohibits the mortgage servicers from
 18 implementing
 19 a postforbearance reinstatement option described in
 20 subparagraphs
 21 (A) and (B) shall notify the borrower and the
 22 Commissioner of
 23 Business Oversight of the claim at the time of an
 24 offer of
 25 forbearance. Failure to make that disclosure shall have the
 26 effect
 27 of a designation by the servicer that it has the
 28 authority to
 29 implement the provisions of this section. At the time of an
 30 offer
 31 of forbearance, the servicer claiming such an exception
 32 shall
 33 present documentation of the ground for the exception
 34 to the
 35 borrower and the Commissioner of Business Oversight.
 36 The
 37 Commissioner of Business Oversight shall develop a
 38 procedure
 39 for reviewing and determining the validity of such
 40 exception
 41 requests and an affected borrower shall have the
 42 opportunity to
 43 participate in the review. Determinations by the
 44 Commissioner of
 45 Business Oversight shall be subject to judicial review.
 46 (2) Notify the borrower in writing of the extension
 47 or
 48 modification required by paragraph (1), including provision
 49 of a
 50 new payment schedule and date of maturity, and that the
 51 borrower
 52 shall have the election of prepaying the suspended
 53 payments at
 54 any time, in a lump sum or otherwise.
 55 (c) If the borrower is unable to return to making
 56 regular
 57 mortgage payments based on the evaluation required by
 58 subdivision 39 (a):

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1 (1) The mortgage servicer shall evaluate the borrower
 2 for all
 3 loan modification options, without regard to whether the
 4 borrower

3 has previously requested, been offered, or provided a
4 loan
5 modification or other loss mitigation option and without
6 any
7 requirement that the borrower come current before that
8 evaluation
9 or as a condition of eligibility for the modification. A
10 modification
11 may include any of the following:
12 (A) Further extending the borrower's repayment period.
13 (B) Reducing the principal balance of the loan.
14 (C) Any other modification or loss mitigation options
15 available
16 to the servicer under the terms of any investor
17 requirements and
18 existing laws and policies.
19 (2) If the borrower qualifies for a modification
20 described in
21 paragraph (1), the mortgage servicer shall implement the
22 option,
23 with no penalties, late fees, additional interest beyond the
24 amounts
25 scheduled or calculated as if the borrower made all
26 contractual
27 payments on time and in full under the terms of the
28 mortgage
29 contract in effect at the time the borrower entered
30 into the
31 forbearance, and with no modification fees charged to the
32 borrower.
(d) If a mortgage servicer determines that a borrower
does not
qualify for a modification after the mortgage servicer
conducts the
evaluations required by this section, the mortgage servicer
shall
evaluate the borrower for all available nonhome retention
loss
mitigation options before considering any foreclosure acts
upon
the expiration of 180 days after the COVID-19 emergency.
3273.15. (a) Any notices or agreements required by this
article
shall be provided in the languages described in Section 1632.
(b) A mortgage servicer shall communicate about
forbearance
and loan modification options described in this article in
the
borrower's preferred language when the mortgage
servicer
regularly communicates with the borrower in that language.
3273.16. Nothing in this article shall relieve a mortgage

servicer 33 of its obligations under Section 2923.5, 2923.55,
2923.6, 2923.7,
34 2924.9, 2924.10, 2924.11, 2924.17, or 2924.18.

35 3273.17. (a) The Legislature finds and declares that
any duty
36 mortgage servicers may have to maximize net present value
under
37 their pooling and servicing agreements is owed to all
parties in a
38 loan pool, or to all investors under a pooling and
servicing
39 agreement, not to any particular party in the loan pool or
investor
40 under a pooling and servicing agreement, and that a
mortgage

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1 servicer acts in the best interests of all parties to the loan
pool or
2 investors in the pooling and servicing agreement if it agrees
to or
3 implements a forbearance, loan modification or workout plan
for
4 which both of the following apply:

- 5 (1) The loan is in payment default, or payment
default is
6 reasonably foreseeable.
- 7 (2) Anticipated recovery under the forbearance and
loan
8 modification plan exceeds the anticipated recovery
through
9 foreclosure on a net present value basis.

10 (b) It is the intent of the Legislature that a mortgage servicer
11 offer a borrower a forbearance and loan modification or workout
12 plan if such a plan is consistent with the mortgage servicer's
13 contractual or other authority.

14 3273.18. (a) (1) A mortgage servicer that violates any of the
15 requirements of this article shall forfeit any rights to commence a
16 foreclosure on a borrower that is harmed by the violation.

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

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

29 (1) A false statement, misrepresentation, or concealment by a
30 mortgage servicer related to the availability of postforbearance
31 payment options.

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

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

37 (c) A violation of a provision of this article shall be deemed a
38 violation of the law pursuant to which a mortgage servicer is
39 licensed, and such a violation shall be subject to the enforcement
40 authority provided to the licensing agency by the licensing law.

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1 (d) A violation of Section 4022 of the federal CARES
Act

2 (Public Law 116-136) shall be a violation of the state
licensing

3 law pursuant to which a mortgage servicer is licensed.

4 3273.19. (a) (1) If a trustee's deed upon sale has not
been

5 recorded, a borrower may bring an action for injunctive
relief to

6 enjoin a material violation of this article.

7 (2) Any injunction shall remain in place and any trustee's
sale

8 shall be enjoined until the court determines that the
mortgage

9 servicer has corrected and remedied the violation or
violations

10 giving rise to the action for injunctive relief. An enjoined entity
11 may move to dissolve an injunction based on a showing that the
12 material violation has been corrected and remedied.

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

23 (c) No violation of this article shall affect the validity of a sale

24 in favor of a bona fide purchaser and any of its encumbrancers for
25 value without notice.

26 (d) The rights, remedies, and procedures provided to borrowers
27 by this section are in addition to and independent of any other
28 rights, remedies, or procedures under any other law. Nothing in
29 this section shall be construed to alter, limit, or negate any other
30 rights, remedies, or procedures provided to borrowers by law.

31 (e) A court may award a prevailing borrower reasonable
32 attorney’s fees and costs in an action brought pursuant to this
33 section. A borrower shall be deemed to have prevailed for purposes
34 of this subdivision if the borrower obtained injunctive relief or
35 was awarded damages pursuant to this
section. 36

37 Article 2. Multifamily Mortgage Loans

38

39 3273.20. (a) A multifamily borrower may submit a request
40 for forbearance to the borrower’s mortgage servicer, either orally

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1 or in writing, affirming that the multifamily borrower
is
2 experiencing hardship during the COVID-19 emergency.

3 (b) A multifamily borrower shall have the option to
discontinue
4 the forbearance at any time.

5 3273.21. Upon receipt of an oral or written request
for

6 forbearance from a multifamily borrower, a mortgage
servicer

7 shall request documentation of the financial hardship,
provide the

8 forbearance for not less than 180 days, and provide the
forbearance

9 for an additional 180 days upon the request of the borrower at
least

10 30 days prior to the end of the initial forbearance period.

11 3273.22. During the term of forbearance under this article, a
12 multifamily borrower shall provide rent relief to any tenants living
13 in the property that secures the mortgage and may not evict a tenant
14 for nonpayment of rent or apply or accrue any fees or other
15 penalties on renters for nonpayment of rent.

16 3273.23. A multifamily borrower shall bring a loan placed in
17 forbearance under this article current within the earlier of 12
18 months after the conclusion of the forbearance period or within
19 10 days of the receipt by the multifamily borrower of any business
20 interruption insurance proceeds.

21 3273.24. A mortgage servicer of a federally backed multifamily
22 mortgage loan that complies with Section 4023 of the federal
23 CARES Act (Public Law 116-136) shall be deemed to be in
24 compliance with this
25 article.

26 Chapter 3. Vehicle-secured credit obligations

27

28 3273.30. A servicer of vehicle-secured credit may not take any
29 action to repossess the mobilehome or motor vehicle that secures
30 a loan during the COVID-19 emergency and for the 180-day period
31 following that emergency, including providing a verbal or written
32 notice of intent to repossess the mobilehome or motor vehicle.

33 ~~3273.31. (a) A consumer experiencing a financial hardship
34 during the COVID-19 emergency may request forbearance from
35 any vehicle-secured credit obligation, regardless of delinquency
36 status, by submitting a request to the servicer of vehicle-secured
37 credit, either orally or in writing, affirming that the borrower is
38 experiencing hardship during the COVID-19 emergency. A
39 borrower shall not be required to provide any additional
40 documentation to receive such forbearance.~~

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1 3273.31. (a) *If a servicer of vehicle-secured credit
2 complies
3 with all provisions of this section, the servicer may proceed
4 with
5 a repossession of a mobilehome or motor vehicle that
6 secures a
7 vehicle-secured credit obligation due to a consumer failing
8 to
9 make a scheduled payment pursuant to the vehicle-secured
10 credit
11 obligation.*
12 (b) *During the COVID-19 emergency, a consumer may
13 request
14 forbearance from a vehicle-secured credit obligation by
15 submitting
16 a request to the servicer of the vehicle-secured credit, either
17 orally
18 or in writing, affirming that the consumer is
19 experiencing a
20 financial hardship that prevents the consumer from making
21 timely
22 payments on the vehicle-secured credit obligation due,
23 directly or
24 indirectly, to the COVID-19 emergency.*

14 (c) Pursuant to a consumer submitting a request
described in
15 subdivision (b), a servicer of vehicle-secured credit may
require
16 the consumer to provide a written attestation subject
to the
17 following requirements:
18 (1) The attestation shall include only the following text:
“I,
19 [consumer name], attest that I am experiencing a
financial
20 hardship that prevents me from making timely payments
on my
21 vehicle-secured credit obligation due, directly or indirectly, to
the
22 COVID-19 emergency.”
23 (2) The servicer shall notify the consumer of the
attestation
24 requirement and provide clear directions for how the
attestation
25 shall be delivered to the servicer.
26 (3) The servicer shall provide forbearance for a period
of no
27 less than 30 days before canceling the forbearance due
to a
28 consumer failing to provide the attestation required by the
servicer.
29 (4) The servicer shall not require the consumer to
provide any
30 additional information or documentation besides the
attestation
31 described in paragraph (1)
32 (b)
33 (d) A servicer of vehicle-secured credit shall provide
the
34 forbearance requested pursuant to subdivision (a) for a
period of
35 90 days. If the ~~borrower~~ consumer affirms that they
continue to
36 experience hardship within the 30 days prior to the
expiration of
37 the initial forbearance period, the servicer of vehicle-secured
credit
38 shall extend the forbearance period upon request of the
~~borrower~~
39 consumer for an additional 90 days. Those forbearance
periods
40 shall continue to be extended upon request of the
~~borrower~~

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1 ~~throughout the duration of the COVID-19 emergency and~~
2 ~~the~~
3 ~~180-day period following that emergency. consumer up~~
4 ~~to a~~
5 ~~cumulative total of 270 days of forbearance.~~

6 (e) During the period of a forbearance under this
7 chapter, a
8 servicer of vehicle-secured credit ~~shall not~~ may assess,
9 accrue, or
10 apply to a ~~borrower's~~ consumer's account a rate of interest
11 of up
12 to 7 percent per annum, but shall not assess, accrue, or
13 apply to
14 a consumer's account any additional fees, penalties, or
15 additional
16 interest beyond the amounts scheduled or calculated as
17 if the
18 borrower-consumer made all contractual payments on time
19 and in
20 full under the terms of the vehicle-secured credit obligation
21 contract
22 in effect at the time the ~~borrower-consumer~~ enters
23 into the
24 forbearance.

25 3273.32. (a) Before the completion of a forbearance
26 period
27 provided by this article, the holder of a vehicle-secured
28 credit
29 obligation shall evaluate a consumer's ability to return to
30 making
31 regular payments.

32 (b) If the consumer is able to return to making regular
33 payments
34 based on the evaluation required by subdivision (a), the
35 holder of

36 the vehicle-secured credit obligation shall:

37 (1) Modify the consumer's vehicle-secured credit
38 obligation to
39 extend the term for the same period as the length of the
40 forbearance,
41 with all payments that were not made during the
42 forbearance
43 distributed at the same intervals as the consumer's existing
44 payment
45 schedule and evenly distributed across those intervals,
46 with no
47 penalties, late fees, or additional interest accrued

beyond the
 28 amounts scheduled or calculated as if the consumer
 made all
 29 contractual payments on time and in full under the terms
 of the
 30 vehicle-secured credit obligation contract in effect at the
 time the
 31 consumer entered into the forbearance, and with no
 modification
 32 fee charged to the consumer.
 33 (2) Notify the borrower in writing of the modification
 required
 34 by paragraph (1), including provision of a new payment
 schedule
 35 and date of maturity, and that the consumer shall have the
 election
 36 of prepaying the suspended payments at any time, in a
 lump sum
 37 or otherwise.
 38 (3) Not require the consumer to waive any other claim
 provided
 39 by law in order to accept the terms of a modification.

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~~1 (c) If the consumer is not able to return to making
 regular
 2 payments based on the evaluation required by subdivision
 (a), the
 3 holder of the vehicle-secured credit obligation may proceed
 with
 4 a written notice of intent to repossess the vehicle as
 required by
 5 law only after the expiration of the COVID-19 emergency and
 the
 6 180-day period following that emergency.
 7 3273.33. Notwithstanding Sections 2983.2 or 2983.8, or
 any
 8 other provision of law, no deficiency judgment shall lie in
 any
 9 event after the sale or other disposition of a mobilehome or
 motor
 10 vehicle for failure by a consumer to make a payment that
 was due
 11 during the COVID-19 emergency or the 180-day period
 following
 12 that emergency unless the servicer of the vehicle-secured
 credit
 13 obligation has complied with all provisions of this~~

~~chapter. A~~

14 ~~repossession of a mobilehome or motor vehicle by a
servicer of a~~

15 ~~vehicle-secured credit obligation that has failed to comply
with~~

16 ~~all the provisions of this chapter shall constitute an
acceptance of~~

17 ~~the collateral in full satisfaction of the vehicle-secured
credit~~

18 ~~obligation as provided by Section 9620 of the Commercial
Code.~~

19 3273.34. The provisions of this title are severable. If
any

20 provision of this title or its application is held invalid,
that

21 invalidity shall not affect other provisions or applications that
can

22 be given effect without the invalid provision or application.

23 ~~SEC. 3. Section 22698 is added to the Financial Code, to
read:~~

24 ~~22698. (a) Notwithstanding any other provision of this
chapter,~~

25 ~~the following shall apply during the COVID-19 emergency
and~~

26 ~~the 180-day period following that emergency:~~

27 ~~(1) Within 60 days of enactment of this section, a
program~~

28 ~~administrator shall notify each property owner with an
outstanding~~

29 ~~assessment contract that the property owner is
entitled to~~

30 ~~forbearance on the next annual PACE assessment owed
pursuant~~

31 ~~to the assessment contract if the property owner is facing a
financial~~

32 ~~hardship, directly or indirectly, due to the COVID-19
emergency.~~

33 ~~The notification shall specify how the property owner may
elect~~

34 ~~to accept the offer of forbearance.~~

35 ~~(2) A program administrator shall provide forbearance
on the~~

36 ~~next annual PACE assessment owed by a property
owner that~~

37 ~~accepts the offer pursuant to paragraph (1).~~

38 ~~(3) A program administrator may require the property
owner to~~

39 ~~pay the amount of the forborne PACE assessment in the
year~~

40 ~~following the scheduled end of the assessment contract. A
program~~

1

(b) For the purposes of this section, "COVID-19 emergency"

2 means the period that begins upon the date of the
3 enactment of

4 this section and ends on the date that the state
5 declares the

6 emergency related to the COVID-19 disease
7 has ended. 5 ~~SEC. 5.~~

8 ~~SEC. 4.~~ The provisions of this act are severable.
9 If any

10 provision of this act or its application is held invalid, that
11 invalidity

12 shall not affect other provisions or applications that can
13 be given

14 effect without the invalid provision or
15 application. 10 ~~SEC. 6.~~

16 ~~SEC. 5.~~ No reimbursement is required by this act
17 pursuant to

18 Section 6 of Article XIII B of the California Constitution
19 because

20 the only costs that may be incurred by a local agency
21 or school

22 district will be incurred because this act creates a new
23 crime or

24 infraction, eliminates a crime or infraction, or changes the
25 penalty

26 for a crime or infraction, within the meaning of Section
27 17556 of

28 the Government Code, or changes the definition of a
29 crime within

30 the meaning of Section 6 of Article XIII B of the
California

Constitution.

O