



State of California
Office of the Attorney General

XAVIER BECERRA
ATTORNEY GENERAL

August 4, 2020

Dear Mortgage Servicer:

As the coronavirus crisis continues, and in advance of the expiration of certain coronavirus-related foreclosure moratoria, please be aware that the California Attorney General's Office is continuing to monitor the mortgage servicing industry's compliance with the Homeowner Bill of Rights¹ and with other laws, regulations, and orders designed to protect homeowners and tenants. The Office may investigate and bring enforcement actions on behalf of the People of the State of California for violations of the Homeowner Bill of Rights or of other laws.

Mortgage servicers must commit adequate resources to meet their legal obligations during and in the wake of the coronavirus crisis. To facilitate communications and better understand how you are responding to challenges arising from the coronavirus crisis, please identify, by **August 31, 2020**, a specific point of contact, including name, telephone number, and email address, with whom the Office may communicate regarding coronavirus-related matters.

The Homeowner Bill of Rights provides homeowners with the right to fairness and transparency in the pre-foreclosure and foreclosure process and with a meaningful opportunity to avoid losing their home. Among other requirements, servicers generally must:

- At least 30 days before recording a notice of default, contact the borrower to assess their financial situation, explore foreclosure prevention options, and provide other information;²
- Before recording a notice of default, inform the borrower in writing of their right to request a copy of their deed of trust or mortgage, payment history since they were last less than 60 days past due, and other documentation;³

¹ The Homeowner Bill of Rights includes California Civil Code sections 2920.5, 2923.4, 2923.5, 2923.55, 2923.6, 2923.7, 2924, 2924.9, 2924.10, 2924.11, 2924.12, 2924.15, 2924.17, 2924.18, and 2924.19.

² Civ. Code §§ 2923.5, 2923.55.

³ Civ. Code § 2923.55.

- Within five business days of recording a notice of default, notify the borrower in writing of any foreclosure prevention alternatives available and how the borrower may apply;⁴
- Upon a borrower's request for a foreclosure prevention alternative, promptly provide a direct means for communicating with a single point of contact responsible for walking the borrower through the application process and deadlines; coordinating receipt of application materials and notifying the borrower of missing documents; timely, accurately, and adequately informing the borrower of the application's current status; ensuring that the borrower is considered for all foreclosure prevention alternatives; and stopping foreclosure proceedings when necessary;⁵
- Provide written acknowledgment within five business days of receiving any document in connection with a borrower's loan modification application and, in the initial acknowledgment of the borrower's application, notify the borrower of all deficiencies, expiration dates for submitted documents, deadlines, and other information;⁶
- Refrain from charging any fee for applying for a foreclosure prevention alternative;⁷
- Refrain from charging any late fee while a complete loan modification application is pending, a denial is being appealed, the borrower is making timely modification payments, or a foreclosure prevention alternative is being evaluated or exercised;⁸
- Refrain from proceeding with foreclosure while a loan modification application is pending or if a foreclosure prevention alternative is approved, as long as certain conditions are met;⁹
- Upon a borrower's acceptance of a foreclosure prevention alternative, provide the borrower a copy of the executed agreement;¹⁰
- If a borrower's loan modification application is denied, state the specific reasons for denial, identify any other foreclosure prevention alternatives that may be available, and provide the borrower with at least 30 days to appeal the denial;¹¹

⁴ Civ. Code § 2924.9.

⁵ Civ. Code § 2923.7.

⁶ Civ. Code § 2924.10.

⁷ Civ. Code § 2924.11, subd. (e).

⁸ Civ. Code § 2924.11, subd. (f).

⁹ Civ. Code §§ 2923.6, subd. (c)-(e), 2924.11, 2924.18.

¹⁰ Civ. Code § 2924.11, subd. (c).

¹¹ Civ. Code §§ 2923.6, subd. (d)-(f).

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- Evaluate a borrower's subsequent loan modification applications if the borrower's financial circumstances have materially changed since they last applied for a loan modification;¹²
- For transferred or purchased loans, honor any previously approved foreclosure prevention alternative;¹³
- Before filing or recording a notice of default, notice of sale, or other foreclosure-related document, review competent and reliable evidence to substantiate the borrower's default and the right to foreclose, and ensure that the document is accurate, complete, and supported by competent and reliable evidence;¹⁴ and
- Adhere to certain requirements and timelines regarding notices of default, notices of sale, and postponements of sale.¹⁵

For additional requirements and information, please see the Homeowner Bill of Rights. In addition, California law provides protections to tenants of homes sold in foreclosure. For example, tenants of foreclosed homes must be given at least 90 days' written notice before they may be evicted, and purchasers of homes sold in foreclosure must honor existing fixed-term leases unless certain conditions apply.¹⁶

Thank you in advance for providing by August 31, 2020, as requested, a specific point of contact with whom we can discuss coronavirus-related mortgage servicing matters.

Sincerely,



XAVIER BECERRA
California Attorney General

¹² Civ. Code § 2923.6, subd. (g).

¹³ Civ. Code §§ 2924.11, subd. (g), 2924.18, subd. (e).

¹⁴ Civ. Code § 2924.17.

¹⁵ Civ. Code §§ 2923.5, 2923.55, 2923.6, 2924, 2924.9, 2924.10, 2924.18.

¹⁶ Code Civ. Proc. § 1161b.