

CALIFORNIA HOMEOWNERS BILL OF RIGHTS

The California Homeowner Bill of Rights became law on January 1, 2013 to ensure fair lending and borrowing practices for homeowners. The laws guarantee fairness and transparency for homeowners in the foreclosure process.

HERE ARE THE NEW RULES:

Homeowner must be contacted prior to foreclosure: A mortgage servicer cannot record a Notice of Default until 30 days after the mortgage servicer contacts the homeowner to look at the homeowner's financial status and find ways to avoid foreclosure. Mortgage servicer must, at the time of recording the Notice of Default, include an unsworn declaration that says homeowner was contacted or efforts were made to contact the homeowner.

Restriction on dual track foreclosure: Mortgage servicers cannot continue the foreclosure process if the homeowner is working on getting a loan modification. Foreclosure proceedings are stopped until a decision is reached on the loan modification application.

Guaranteed single point of contact: Mortgage servicers are required to provide a single point of contact to homeowners who are at risk of default. This contact—who knows the homeowners' case and can provide updates on their loan modification application is responsible for helping homeowners avoid foreclosure.

Verification of documents: Mortgage servicers that record and file multiple unverified and inaccurate documents will face civil penalty of up to \$7,500 per loan. They also may face penalties by licensing agencies, such as the Department of Corporations, the Department of Real Estate and the Department of Financial Institutions.

Enforceability: Borrowers have the right to seek civil relief for any material violations of the new foreclosure process protections. Injunctive relief will be available before a foreclosure sale while recovery of money damages will be available after a sale.

Tenant rights: Purchasers of foreclosed homes are required to honor current leases, such as giving tenants at least 90 days before starting eviction proceedings. If a tenant has a fixed-term lease entered into before transfer of title at the foreclosure sale, the owner must honor the lease unless the owner can prove that exceptions intended to prevent fraudulent leases apply.

Tools to prosecute mortgage fraud: The statute of limitations to prosecute mortgage-related crimes is extended from one to three years, allowing the Attorney General's office to investigate and prosecute complex mortgage fraud crimes. In addition, the Attorney General's office can use a statewide grand jury to Investigate and Indict perpetrators of financial crimes involving victims in multiple counties.

