

provided before the date upon which a declaration of a state of emergency was issued by the Governor or by the federal government.

- 4) Requires the mortgage servicer to notify the borrower within ten business days whether the forbearance request is approved and, if approved, information about all potential repayment plans that may be used.
- 5) Provides that a mortgage servicer, if acting under delegated authority to make forbearance determinations on behalf of the investor, shall not be in violation of #3 above if the mortgage servicer denies a forbearance request and provides written notice to the borrower stating the specific reason for denial, as specified.
- 6) Provides a specified process for a borrower to cure a defect in the borrower's forbearance request.
- 7) Prohibits a mortgage servicer from the following acts:
 - a) Assessing any late fees or charging a default rate of interest during the forbearance period.
 - b) Requiring a lump sum payment for a borrower who was current on the residential mortgage loan when the borrower entered forbearance.
 - c) For accounts granted disaster-related mortgage payment relief, furnishing information during the forbearance period indicating that the payments are in forbearance.
 - d) Using cascading payment processing to collect forbore mortgage payments unless explicitly authorized by the borrower.
 - e) Initiating any judicial or nonjudicial foreclosure process, moving for a foreclosure judgment or order of sale, or executing a foreclosure-related eviction or foreclosure sale during the time of forbearance, if the borrower is performing pursuant to the terms of the forbearance.
- 8) Requires a mortgage servicer to do the following:
 - a) Disclose to a borrower, only once at the beginning of the forbearance period, that forbore mortgage payments must be repaid.
 - b) Provide written notice to the borrower, no later than 30 days before the end of an initial forbearance period, disclosing any documentation or forms the mortgage servicer requires the borrower to furnish to be considered for an additional period of forbearance and a description of the deadlines and timelines associated with considering an additional period of forbearance.
 - c) Offer the borrower, at the borrower's election, the option to defer repayment of forbore amounts to the end of the loan term, through a loan deferral or comparable loss mitigation option, consistent with the servicer's contractual authority and not if prohibited by the terms of the applicable investor contract or servicing guidelines.

- 9) Prohibits a residential mortgage loan from being sold, assigned, or otherwise transferred to another owner or managed by another mortgage servicer without written consent from the borrower.
- 10) Provides that failure to comply with the provisions of this bill shall not affect the validity of a trustee's sale or a sale to a bona fide purchaser of value.
- 11) Provides that a person shall not be held liable for a violation of a provision of this bill if compliance with such a provision conflicts with specified servicing guidelines.
- 12) Requires a mortgage servicer to report specified information to the Department of Financial Protection and Innovation during a state of emergency and for 90 days thereafter, related to the number of forbearance requests received, approved, and denied, and the reasons for denials, as specified.
- 13) Provides civil enforcement authority to the Attorney General, a district attorney, or a county counsel to enforce the provisions of the act.
- 14) Requires DFPI to post all of the following information on its website:
 - a) Links to the provisions of servicing guidelines pertaining to emergency-related forbearance relief for federally backed loans.
 - b) A summary of Fannie Mae and Freddie Mac guidance to assist borrowers in understanding their forbearance programs.
 - c) A dedicated telephone number for borrowers seeking assistance.
- 15) Declares the intent of the Legislature that a mortgage servicer offer a borrower forbearance that is consistent with the mortgage servicer's contractual or other authority and that this act does not apply to servicing guidelines that are unrelated to emergency-related forbearance relief. Provides that nothing in this bill requires a mortgage servicer to take any action that would require the mortgage servicer to breach the terms of an existing contract with the investor that owns or insures the residential mortgage loan.

COMMENTS

1) *Purpose*

According to the author:

California homeowners who lose or cannot safely occupy their homes due to wildfires, floods, and other disasters often face immediate financial hardship while still being required to make mortgage payments. Current mortgage relief is inconsistent, frequently depending on loan type, investor requirements, or voluntary lender programs, leaving many disaster survivors without clear protections and at risk of foreclosure, penalties, or credit damage during recovery.

AB 1842 is needed to establish a consistent statewide framework that ensures eligible homeowners can access mortgage forbearance after a declared emergency. As natural disasters become more frequent and severe, the bill provides certainty and stability so

families can focus on rebuilding their homes and lives rather than navigating inconsistent mortgage relief options.

2) *Background*

Last year, in response to the wildfires in Los Angeles, the author of this bill authored AB 238 (Harabedian, Chapter 128, Statutes of 2025) which provided streamlined access for victims of the wildfires to obtain at least 12 months forbearance of their mortgage payments. Recognizing that widespread disasters are happening more frequently, the author introduced this bill to create a statewide emergency forbearance framework that mortgage borrowers can rely on and that mortgage servicers can expect and plan for whenever a state of emergency is declared.

Mortgage borrowers affected by wildfires or other widespread emergencies may face challenges in making their mortgage payments, particularly those borrowers who experience a loss of employment, reduced earnings, or unexpected expenses due to the emergency. As people and communities affected by an emergency have time to recover, many of these borrowers will have the opportunity to find other employment opportunities or stabilize their earnings in a manner that will allow them to afford their monthly expenses. For these mortgage borrowers, a temporary pause in their mortgage payment obligations will afford them the opportunity to get back on their feet and avoid the cascading expenses and challenges that accompany mortgage delinquency and foreclosure.

Mortgage forbearance refers to a temporary pause in monthly payments, offered to borrowers who face financial challenges. These payments are not forgiven, and the borrower is required to repay the scheduled payments at a later date, often with interest accruing over the time that the payments are deferred. As recognized by the federal Consumer Financial Protection Bureau: “Forbearance is complicated. There isn’t a ‘one size fits all’ answer, because the options depend on many factors.”¹ Forbearance is not a giveaway to borrowers; it is a tool that can be used to avoid unnecessary defaults, late fees, and foreclosures caused by temporary disruptions to a borrower’s financial situation.

Mortgage servicers typically allow a borrower to receive forbearance when dealing with a financial hardship. Servicers of federally backed mortgages are subject to guidelines that establish expectations, responsibilities, and authorities when servicing mortgages on behalf of the investors who purchase mortgage-backed securities and the government agencies that insure or guarantee certain mortgages.² These guidelines authorize – but do not require – servicers to offer forbearance to borrowers facing a financial hardship, whether related to a natural disaster or a more typical hardship, such as the loss of employment. Servicers of fully private mortgages, which do not receive government support, often follow federal guidelines, at least in part, when servicing these loans.

¹ <https://www.consumerfinance.gov/ask-cfpb/what-is-mortgage-forbearance-en-289/>

² The federal government supports the mortgage financing system through several programs designed to ensure liquidity in mortgage markets, subsidize costs for credit-challenged borrowers, aid first-time homebuyers, and to increase homeownership. Approximately 70% of mortgages nationwide are supported by federal agencies or government-sponsored enterprises, like Fannie Mae and Freddie Mac (see, e.g., <https://www.urban.org/urban-wire/price-tag-keeping-29-million-families-their-homes-162-billion>). Each federal program maintains maximum loan amounts to qualify. Given the higher prices of California real estate compared to the national average, it is likely that federally back mortgages comprise significantly less than 70% of outstanding mortgages in California, though there is no publicly available data to provide a more precise estimate.

3) *How the emergency forbearance framework is intended to work*

The author takes a similar approach to constructing the forbearance framework in this bill as he did with AB 238. While the author and the mortgage servicing industry were not in complete unison on AB 238, they worked collaboratively and diligently to arrive at a set of policies that seeks to balance the interests of borrowers, mortgage servicers, and holders of mortgages and that works within existing legal and contractual requirements already in place. The compromise, however, was reached under the assumption that the bill was intended to address the borrowers affected by the Los Angeles wildfires, not to be a set of provisions that would be available to borrowers of any emergency over the longer-term. The need to move quickly to address survivors in Los Angeles last year may have prevented more deliberate policymaking and careful drafting of legislative text.

Similar to AB 238, two key principles seem to drive the author's approach to this bill. First, refrain from directing a mortgage servicer to act in a manner that conflicts with or violates legal obligations to which the servicer is subject. Second, where a servicer has discretion in how it carries out forbearance, compel the servicer to act in a manner that is favorable to the borrower. Building from these principles, the bill contains the following key terms:

- Borrowers affected by an emergency can receive up to 12 months of forbearance.
- If denied a forbearance request, the mortgage servicer is compelled to provide the specific reason for denial, which, if curable, the borrower can remedy their request.
- For borrowers in forbearance, the bill prohibits negative credit reporting, late fees, the requirement for a lump-sum repayment at the end of the forbearance period, or the initiation of foreclosure proceedings.
- Mortgage servicers are provided a safe harbor from liability for any provisions of this bill that would require a mortgage servicer to breach the terms of an existing contract with the investor who owns the loan or that conflicts with the servicing guidelines applicable to a federally backed loan.

4) *How does AB 238 inform policy related to emergency forbearance?*

AB 238 was crafted in the wake of a devastating disaster, informed by the challenges that borrowers were facing in the immediate weeks and months after the wildfires. The provisions of AB 238 went into effect on September 22, 2025, more than eight months after the onset of the disaster. During an oversight hearing held by the Assembly Banking and Finance Committee on March 20, 2026, testimony from the Department of Financial Protection and Innovation (DFPI) indicated that the department had received 233 consumer complaints regarding mortgage forbearance, with many of those complaints coming prior to the enactment of AB 238; however, the department has received complaints after enactment, primarily related to required lump sum payments at the end of a forbearance period.

The March 2026 hearing was framed as an “outcomes review” hearing, but it remains difficult to answer key questions about AB 238 related to its effectiveness, factors that contribute to borrowers' expectations remaining unmet, or how to improve the policy framework. The hearing, however, was effective in surfacing the perspectives of wildfire survivors. Several themes emerged from the testimonies of survivors:

- Survivors often feel that they have done nothing wrong, that they have paid their mortgages on time, and that they should essentially be held harmless related to any mortgage obligations. Based on these premises, they believe that they should be able to pause their mortgage payments and shift any deferred payments to the end of the mortgage loan.
- Survivors feel strongly about protecting their credit scores. They do not believe that their credit reports should be negatively affected by entering into a forbearance plan. Some survivors are actively shopping for construction loans or other forms of financing to aid in rebuilding, and negative information on their credit report could hinder their recovery.
- The risk or threat of being required to pay a lump sum payment at the end of the forbearance period is a material factor for some borrowers in deciding whether to accept a forbearance offer. Survivors generally yearn for clarity, if not certainty, in how the deferred payments will be treated at the end of the forbearance period.
- Survivors received varying responses from their servicers when the survivor asked about forbearance options, sometimes even hearing conflicting information from the same company depending on which person they speak with on a given day. Some survivors were satisfied with how their servicer handled the forbearance process, though a majority expressed dissatisfaction. Committee staff is unaware of any data to inform whether these survivors' experiences generally represent the experiences of all survivors who sought forbearance after the LA wildfires.
- A 12-month forbearance period is not well-aligned with the realities of disaster recovery. Rebuilding a house after a total loss event is a process that takes two or more years in many cases. The financial health of survivors is heavily reliant on their insurance coverage, particularly how much of their rebuild costs will be covered by insurance and the extent of their coverage for additional living expenses. Important to the forbearance issue, several survivors discussed the concerning prospect of losing coverage for additional living expenses in the coming months – which will lead to a difficult reality of needing to pay rent at their temporary residence while facing a mortgage payment on a property that is uninhabitable.
- Some national banks have allegedly told survivors that the bank is not bound by the requirements of AB 238. If a national bank held such a opinion, there are several legal arguments upon which a national bank could rely. Irrespective of the arguments or whether a court would agree, the immediate effect is that survivors may believe that AB 238 provides them with legally enforceable rights, but their servicer may perceive the law differently.

These perspectives of survivors may force the Legislature to confront questions of legal authority, enforcement, and trade-offs. One challenging reality is that a “mortgage” is not a uniform product governed by one set of rules or provided by similarly incentivized holders and servicers. While it is understandable to yearn for a one-size-fits-all, simple approach to forbearance, that is not an outcome that the state of California has legal authority to achieve. An attempt to enact policy on this topic must grapple with the fact that the federal government provides backing to many mortgage products – a support that comes with differing requirements, policies, and guidelines that private sector mortgage originators and servicers must follow. Additionally, national banks play prominent roles in mortgage

markets, especially in the non-government-backed space, and states are limited in the types of policies that can be enforced against national banks. Furthermore, contract law and attendant constitutional concerns may constrain the Legislature's ability to enact laws that impair existing contractual obligations. With such a wide array of mortgage-related contracts that are held and/or serviced by a variety of entities, a simple and standardized approach to dealing with emergency-related forbearance is not possible for a state to implement.

For policy goals that are attainable, the Legislature may confront how to allocate the costs imposed by a disaster among stakeholders who had no hand in causing the underlying disaster. Some wildfire survivors argue that they did everything right and are only victims of bad luck, so they should be granted relief on their mortgages. The mortgage servicer and mortgage holder could also argue that they have done nothing wrong and may question whether they should bear the costs of mortgage deferrals. Important to the issue of mortgage forbearance, some proponents seem to believe that deferring mortgage payments and adding those payments to the end of the mortgage term imposes no costs to the mortgage holder, but that argument ignores the time value of money and opportunity costs. Particularly when the rate on an outstanding mortgage affected by an emergency is much lower than the prevailing mortgage rates at the time a borrower enters forbearance, the economic costs to a mortgage servicer or holder can be significant. Unavoidably, large-scale disasters impose significant costs on society, and oftentimes, one or more groups of innocent parties are forced to bear those costs.

5) *Arguments in Support*

California Community Foundation writes in support:

As California faces increasingly frequent and severe natural disasters, homeowners are often left making mortgage payments on homes that are destroyed or uninhabitable. Recovery can take multiple years due to insurance delays, permitting backlogs, labor shortages, and rising construction costs. Yet there is currently no consistent statewide framework ensuring mortgage relief during declared emergencies.

AB 1842 establishes a clear, uniform statewide forbearance process when the Governor or federal government declares a state of emergency. The bill allows eligible homeowners to temporarily pause mortgage payments without late fees, penalties, foreclosure risk, or credit harm, while prohibiting harmful lump-sum repayment requirements. It also creates transparency and reporting requirements to ensure accountability and consumer protection.

By providing stability during times of crisis, AB 1842 reduces foreclosure risk, supports stronger community recovery, and helps families remain housed.

6) *Arguments in Opposition*

A coalition of trade associations that represent mortgage servicers and holders, including the California Bankers Association and California Mortgage Bankers Association, writes in an oppose unless amended position:

While we strongly support efforts to assist homeowners whose properties become uninhabitable because of a declared emergency, California lenders have consistently

worked with borrowers during wildfires, floods, and other disasters to provide meaningful and timely relief.

However, AB 1842 contains several provisions that are operationally unworkable, conflict with federal mortgage servicing requirements, and could create unintended harm for borrowers and the housing finance system.

The letter identifies six concerns to address with amendments: delete the state-only emergency declarations as it creates compliance risks; delete the “cascading payment” provision; delete the provision requiring a borrower’s approval prior to a servicing transfer or transfer of ownership of the mortgage; clarify the scope of forbearance repayment options that must be disclosed concurrent with an offer of forbearance; narrow the requirements related to credit reporting to a restatement of existing federal law; and delete the required reporting to DFPI.

7) *Amendments*

Committee staff recommends the following amendments to reduce legal risks associated with federal preemption or constitutional concerns and address concerns from opposition.

- a) Delete the state-proclaimed option from the definition of “emergency” and make clarifying and conforming changes throughout the bill

Mortgage servicers have obligations under existing servicing guidelines, investor rules, or contractual provisions related to servicing a mortgage that is affected by a disaster. Servicers have systems in place to monitor for federally-declared disasters, but no similar mechanisms to monitor for any proclamations of emergencies at the state level. Further, under the federal Stafford Act, the President is authorized to declare a “major disaster” or an “emergency.” Based on the author’s stated intent, this bill should likely use the term “major disaster” to define the triggering event that would unlock the streamlined forbearance program for borrowers.

States proclaim emergencies for smaller scale issues that arguably do not warrant the triggering of a streamlined forbearance program. In California, under Government Code Section 8558, one factor that supports a state proclamation of emergency is that the conditions caused by an event are beyond the capacity of a single local government to address.

Amendment: delete the definition of “emergency,” recast with consistent language to define “disaster,” and make conforming changes throughout the bill.

(b) ~~“Emergency” means the conditions described in a proclamation or declaration of a state of emergency issued by the Governor or by the federal government.~~

“Disaster” means the conditions described in a declaration of a major disaster under the federal Stafford Act.

- b) Clarify provisions related to repayment of forborne amounts and related notifications.

This bill prohibits a servicer from requiring a borrower to repay forborne amounts in a lump sum and requires the servicer to inform the borrower, along with a notice of

approval for forbearance, of all potential repayment plans that may be used. The intent motivating these provisions is to make the forbearance offer workable for the borrower and to provide clarity on how the forborne amounts will be repaid. The complexity of mortgage markets, however, makes these provisions ripe for conflict and place the servicer in a challenging position of being in conflict between the law and the expectations of entities that are financially exposed to the underlying mortgage loan. To make these provisions fit better with the complexities of mortgage markets, the following amendment is recommended.

Amendment: Delete subdivision (e) of Section 3273.35 and replace prohibition on lump sum repayment with a more flexible framework and tether the upfront notification of repayment options to the more flexible language.

3273.35 (c) ~~A lump sum payment shall not be required for a borrower who was current on the residential mortgage loan when the borrower entered forbearance.~~ **To the extent consistent with a mortgage servicer's contractual authority, at the end of a borrower's forbearance period, the mortgage servicer shall offer the borrower at least one post-forbearance home retention option that does not, prior to satisfaction of the mortgage loan, do either of the following:**

(1) Require the borrower to repay the arrearages resulting from the forbearance all at once in a lump sum.

(2) Increase in any month the borrower's pre-forbearance monthly principal and interest payment other than as the result of an adjustment of the applicable index pursuant to the terms of an adjustable rate mortgage. ...

~~(e) Except if prohibited by the terms of the applicable investor contract or servicing guidelines, a mortgage servicer shall, at the borrower's election, offer the borrower the option to defer repayment of forborne amounts to the end of the loan term, through a loan deferral or comparable loss mitigation option, consistent with the servicer's contractual authority.~~

3273.34 (c) The **mortgage servicer shall notify the** borrower **in writing** ~~shall be notified~~ within 10 business days ~~by the mortgage servicer~~ whether the borrower's request for forbearance has been approved. With any notice of approval, the mortgage servicer shall provide to the borrower information about all potential repayment plans that may be used **pursuant to subdivision (c) of Section 3273.35.**

- c) Delete the prohibition on selling, assigning, or transferring a loan or loan servicing without consent of borrower.

This bill requires a borrower's written consent before their mortgage is sold, assigned, or transferred to another owner or servicer. This provision raises significant legal risks related to interference with private property rights and is not supported by a compelling purpose. The provision would also create considerable problems for affected servicers and holders and, if somehow enforceable, would establish a jarring precedent for the mortgage finance system.

Amendment: delete subdivision (j) of Section 3273.34.

d) *Clarify the “cascading payment processing” provision.*

This bill contains a provision related to so-called “cascading payment processing” which is an undefined term that has no widely held meaning within the loan servicing space. The following amendment is offered to clarify the intent of this provision.

Amendment: replace existing subdivision (d) of Section 3273.35 with the following:

~~3273.35 (d) Cascading payment processing shall not be utilized by a mortgage servicer to collect forborne mortgage payments unless explicitly authorized by the borrower. A~~
mortgage servicer shall apply all payments received from the borrower after the forbearance period ends in compliance with the terms of the loan and any post-forbearance agreement between the borrower and the mortgage servicer.

e) *Delete the reporting requirements.*

This bill requires mortgage servicers to report information about emergency-related forbearance to DFPI. This provision cannot be enforced against national banks due to restrictions on states exercising visitatorial powers such institutions. For institutions under the authority of DFPI, the department can require reporting of information under existing authorities.

Amendment: delete Section 3273.39 from the bill.

8) *Double Referral*

This bill is double referred to the Committee on Judiciary.

LIST OF REGISTERED SUPPORT/OPPOSITIONSupport

American Federation of State, County and Municipal Employees, AFL-CIO
 California Charter Schools Association
 California Community Foundation
 California Low-income Consumer Coalition
 California Professional Firefighters
 Consumer Attorneys of California
 Consumer Watchdog
 East Bay Housing Organizations
 Eaton Fire Survivors Network (UNREG)
 Habitat for Humanity California
 Los Angeles; City of
 Office of Los Angeles Mayor Karen Bass
 SEIU California
 Southern California Rental Housing Association
 University of California Student Association
 Western Center on Law & Poverty, Inc.

Opposition

California Association of Realtors
California Bankers Association
California Business Roundtable
California Chamber of Commerce
California Community Banking Network
California Mortgage Bankers Association
California's Credit Unions
Capitol Business Alliance
Civil Justice Association of California (CJAC)

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