SENATE RULES COMMITTEE AB 238

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 238
Author: Harabedian (D) and Irwin (D), et al.
Amended: 7/10/25 in Senate
Vote: 27 - Urgency

SENATE BANKING & F.I. COMMITTEE: 7-0, 6/18/25
AYES: Grayson, Niello, Cervantes, Hurtado, Limón, Richardson, Strickland

SENATE JUDICIARY COMMITTEE: 12-0, 6/24/25
AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Valladares

SENATE APPROPRIATIONS COMMITTEE: 7-0, 7/14/25
AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 70-0, 4/7/25 - See last page for vote

SUBJECT: Mortgage forbearance: state of emergency: wildfire

SOURCE: Author

DIGEST: This bill requires a mortgage servicer to provide up to 12 months of forbearance to a borrower experiencing financial hardship due to the January 2025 Los Angeles wildfire disaster.

ANALYSIS:

Existing law prohibits a mortgage servicer from recording a notice of default until at least 30 days after making contact, as specified, with a borrower to discuss options for avoiding foreclosure. (Civil Code Section 2923.5)

This bill

1) Contains an urgency clause.

2) Defines "wildfire disaster" to mean the conditions described in specified disaster proclamations related to the Eaton Wildfire, the Palisades Fire, and the Straight-line Winds that occurred in January 2025.

3) Permits a borrower who is experiencing financial hardship that prevents the borrower from making timely payments on a residential mortgage loan due directly to the wildfire disaster to request forbearance on the residential mortgage loan, as specified.

4) Requires a mortgage servicer, upon a request from a borrower pursuant to #3 above, to offer mortgage payment forbearance for a period of up to an initial 90 days, which shall be extended at the request of the borrower in 90-day increments, up to a maximum forbearance period of 12 months, which shall include any period of forbearance provided to the borrower prior to the enactment of this bill.

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 #4 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, for accounts granted disaster-related mortgage payment relief, from furnishing information during the forbearance period indicating that the payments are in forbearance.

8) 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) 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.

9) 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.

10) 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.

11) Requires the Department of Financial Protection and Innovation to post the following information on its website:

    a) Links to the provisions of servicing guidelines pertaining to disaster-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.

12) 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. 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 the residential mortgage loan.

Comments

1) *Purpose*. According to the author:

> The purpose of this bill is to create a structured, industry-standard mortgage forbearance program specifically for homeowners affected by the Los Angeles wildfires. In the wake of disasters like the Los Angeles wildfires, families face displacement, uncertainty, and the threat of foreclosure. This bill addresses the current lack of formal relief options by providing temporary financial protection, giving homeowners the time they need to recover and rebuild without the immediate pressure of mortgage payments.

2) *Background*. Wildfires in Southern California in January 2025, including the Palisades Fire and Eaton Fire, destroyed more than 18,000 homes and structures, forced evacuations by more than 200,000 people, and resulted in at least 30 fatalities. In addition to the direct and acute consequences, the UCLA Anderson Forecast estimates that the fires will cause a $4.6 billion decline in

economic activity and total wage losses of $297 million for local businesses and employees in affected areas.[1]

Homeowners affected by the wildfires may face challenges in making their mortgage payments, particularly those who experience a loss of employment or reduced earnings due to the wildfire disaster. As Los Angeles recovers from the disaster, many of these homeowners 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.

3) *Mortgage forbearance and LA wildfires.* 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."[2] 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 certain mortgages.[3] 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

---

[1] **https://www.anderson.ucla.edu/about/centers/ucla-anderson-forecast/economic-impact-los-angeles-wildfires**
[2] **https://www.consumerfinance.gov/ask-cfpb/what-is-mortgage-forbearance-en-289/**
[3] 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, particularly in areas affected by the LA wildfires, though there is no publicly available data to provide a more precise estimate.

private mortgages, which do not receive government support, often follow federal guidelines, at least in part, when servicing these loans.

In the wake of the LA wildfires, hundreds of financial institutions serving the Los Angeles area committed to providing financial relief to customers affected by the wildfires. On January 18, Governor Newsom announced that the state had worked with major lenders to offer mortgage relief to LA firestorm victims.[4] As of January 30, the Department of Financial Protection and Innovation (DFPI) had confirmed additional commitments from more than 400 financial institutions.[5] The lenders committed to offering the following relief to consumers:

- 90-day mortgage payment forbearance periods, streamlined processes for requesting initial relief without submitting forms or documents, payment options that do not require immediate repayment of unpaid amounts (i.e., no balloon payments) at the end of the forbearance period, and the opportunity for additional relief.
- Relief from mortgage-related late fees accruing during the forbearance period for 90 days.
- Protection from new foreclosures or evictions for at least 60 days.
- Institutions will not report late payments of forborne amounts to credit agencies.

4) *Author's motivation for this bill and proposed solution.* The author introduced this bill to address the lack of formal relief options available to mortgage borrowers affected the LA wildfires by proposing a structured, industry-standard forbearance program. As evidenced by information provided by the author's office to Committee staff, homeowners in the LA area have had mixed results when seeking forbearance from their mortgage servicers. While some homeowners report a straightforward and easy process, others report challenges in receiving clear information from servicers. In some cases, servicers appear unaware of the terms of the commitment they made to the state of California. Some homeowners have reported that they decided not to seek foreclosure after receiving information from their servicer that their credit score could be negatively affected or that they would owe a lump-sum payment once the forbearance period had ended. The different experiences reported by the author's constituents support the value of an industry-standard approach, enacted by a formal law.

---

[4] **https://www.gov.ca.gov/2025/01/18/governor-newsom-announces-commitments-from-major-lenders-to-provide-firestorm-survivors-with-mortgage-relief/**
[5] **https://dfpi.ca.gov/lafires/relief/**

The author and industry stakeholders have 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. There is no registered opposition to the bill in print.

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 experiencing financial hardship due to the LA wildfires can receive up to 12 months of forbearance, meted out in 90-day increments.
- 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 or furtherance 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 7/15/25)

A New Way of Life Re-entry Project
American Federation of State, County and Municipal Employees, AFL-CIO
Associated General Contractors, California Chapters
California Apartment Association
California Charter Schools Association
California Community Foundation
California Professional Firefighters
California State Council of Service Employees International Union
California-hawaii State Conference of the NAACP
CDP Rural Caucus
CFT- a Union of Educators & Classified Professionals, AFT, AFL-CIO

City of Los Angeles
County of Los Angeles Board of Supervisors
Courage California
Smart Justice California, a Project of Tides Advocacy

OPPOSITION: (Verified 7/15/25)

None received

ARGUMENTS IN SUPPORT: The City of Los Angeles writes in support:

> On January 7, 2025, the Los Angeles region experienced unprecedented wildfire and windstorm events, including the Palisades, Eaton, Hurst, and Hughes Fires, burning over 50,000 acres throughout the county. Many residents have since faced significant financial hardships that have jeopardized their housing stability.
>
> AB 238 ensures critical support for affected homeowners by authorizing borrowers experiencing financial hardship due to the wildfire disaster to request forbearance from their mortgage servicers. The bill mandates an initial 90 days of forbearance, extendable in 90-day increments up to a maximum of 12 months, without fees, penalties, or additional interest. Crucially, it prohibits foreclosure-related actions during the forbearance period and ensures clear communication regarding repayment options. AB 238 provides homeowners the flexibility and time needed to recover financially without the immediate threat of foreclosure.

ARGUMENTS IN OPPOSITION: None received

ASSEMBLY FLOOR: 70-0, 4/7/25
AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Tangipa, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Bauer-Kahan, Castillo, Gallagher, Jeff Gonzalez, Hadwick, Lee, Sanchez, Ta, Wallis

Prepared by: Michael Burdick / B. & F.I. /
7/15/25 16:18:08

****** END ******