

California Mandates Forbearances for Mortgage Borrowers Affected by Wildfires

Alert

10.09.2025

By Mark Lonergan & Stephen Britt

On September 22, 2025, California Governor Gavin Newsom signed [Assembly Bill 238](#), which took immediate effect as an urgency statute. The new Mortgage Forbearance Act (the Act) can be found in section 3273.20 *et seq.* of the California Civil Code and allows borrowers whose mortgages are secured by one to four residential units to obtain a forbearance of their mortgage simply by affirming that they are experiencing a financial hardship due to California wildfires that were the subject of state and federal disaster declarations in early 2025.

Under the Act, mortgage servicers are obligated to respond to forbearance requests within 10 business days. They must explain the basis for denial of a request and offer borrowers the opportunity to cure any defect in their request. In response to industry input during the legislative process, this law recognizes that servicers may lack authority to agree to forbearances under applicable investor guidelines. However, the servicer must provide the borrower with the specific language of the investor guidelines that are the basis for its denial of the borrower's request. Servicers are not required to grant forbearance requests that conflict with Fannie/Freddie servicing guidelines, or, if applicable to a federally-backed mortgage, FHA, VA, or USDA Rural Development guidelines.

Upon approval, borrowers will receive a 90-day forbearance, which may be extended for up to 12 months. This forbearance program will expire on January 7, 2027, or six months after California terminates its state of emergency, whichever occurs first.

During the forbearance period, mortgage servicers may not assess late fees to a borrower, charge a default rate of interest, initiate or complete a judicial or nonjudicial foreclosure, or execute a foreclosure-related eviction. The Act also imposes significant restrictions on the servicer's furnishing of information to

California Mandates Forbearances for Mortgage Borrowers Affected by Wildfires

consumer reporting agencies during the forbearance; specifically, the servicer is prohibited from reporting that the loan is in forbearance and must either report the loan as current or maintain its delinquent status if the loan was delinquent before the forbearance was granted.

The Act leaves unanswered a number of questions that could hamper compliance efforts. It provides no mechanism for resolving disputes concerning whether the borrower is in fact “experiencing a financial hardship that prevents the borrower from making timely payment,” or whether a forbearance is allowed under investor guidelines. The Act requires servicers to comply with the federal Fair Credit Reporting Act, which mandates accurate credit reporting, yet also prohibits servicers from reporting the fact that the mortgage is in forbearance. Similar but less restrictive provisions in the federal CARES Act (upon which this law was patterned) led to class action lawsuits over the credit reporting practices of mortgage servicers.

As a result of this new law, servicers will need to prepare materials and procedures for handling wildfire forbearance requests and ensure that their credit reporting practices are compliant with these new requirements. For further information regarding this new law, please contact [Mark Lonergan](#), [Stephen Britt](#) or the Stinson LLP contact with whom you regularly work.

CONTACTS

Stephen D. Britt

Mark D. Lonergan

RELATED CAPABILITIES

Banking & Financial Services

Business Litigation

Class Action

STINSON

STINSON LLP  STINSON.COM