

Senate Bill No. 455

CHAPTER 873

An act to add Article 4 (commencing with Section 2968) to Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code, relating to mortgages.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 455, McGuire. State of emergency: mortgage servicers: disasters.

Existing law generally regulates mortgages and mortgage servicers, as defined, including the transfer of servicing a borrower's debt to a subsequent mortgage servicer. Existing law provides that a covenant made by an owner or grantee of land to do or refrain from doing some act on the owner's or grantee's land, which doing or refraining is expressed to be for the benefit of the covenantee, is a covenant that runs with the land granted to the covenantor if specified requirements are met. The California Emergency Services Act establishes the effect of a proclamation of a state of emergency, as defined, or a local emergency, as defined.

This bill would require a transferor mortgage servicer servicing a mortgage secured by property, as defined, within the geographic limits of a proclaimed state of emergency or local emergency to deliver to a transferee mortgage servicer any material written records between the borrower and the mortgage servicer relating to the borrower's election to use insurance proceeds to repair or replace property damaged by a disaster for which the state of emergency or local emergency was proclaimed, as specified. The bill would prohibit the transferee mortgage servicer from dishonoring a previous written agreement to repair property made prior to the transfer between the transferor mortgage servicer and the borrower and approved by the owner of the promissory note.

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 2968) is added to Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code, to read:

Article 4. State of Emergency

2968. (a) For purposes of this article, the following definitions apply:

(1) "Mortgage servicer" has the same meaning as defined in subdivision (a) of Section 2920.5.

(2) “Property” means residential real property that is improved by four or fewer residential dwelling units, affixed mobilehomes, and manufactured homes.

(3) “State of emergency” and “local emergency” have the same meanings as defined in subdivisions (b) and (c), respectively, of Section 8558 of the Government Code.

(b) A transferor mortgage servicer servicing a mortgage secured by property within the geographic limits of a proclaimed state of emergency or local emergency shall deliver to a transferee mortgage servicer any material written records between the borrower and the mortgage servicer relating to the borrower’s election to use insurance proceeds to repair or replace property damaged by a disaster for which the state of emergency or local emergency was proclaimed.

(c) A transferee mortgage servicer pursuant to subdivision (b) shall not dishonor a previous written agreement to repair property made prior to the transfer between the transferor mortgage servicer and the borrower and approved by the owner of the promissory note.

(d) This article shall not be interpreted to prohibit a mortgage servicer from delivering to a transferee mortgage servicer any material written records relating to a borrower’s election to use insurance proceeds to repair or replace damaged property that was not caused by a disaster for which a state of emergency or local emergency was proclaimed.