



THE STATE BAR OF CALIFORNIA Business Law Section

Consumer Financial Services e-Bulletin

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Homeowner Bill of Rights to Include Successor Rights

Effective January 1, 2017, California's Homeowner Bill of Rights will provide certain new rights to a deceased borrower's successor in interest. The amendment is particularly relevant to reverse mortgages, but affects any residential mortgage loan that is otherwise subject to the Homeowner Bill of Rights.

The amendment provides that upon notification by someone claiming to be a successor in interest when a borrower has died, the mortgage loan servicer may not record a notice of default until it completes two tasks.

1. First, the servicer must request reasonable documentation from the claimant that the borrower has died. A death certificate is appropriate. The servicer must allow the claimant no less than **30 days** to provide the documentation.

2. Second, the servicer must request reasonable documentation from the claimant demonstrating the claimant's ownership interest in the real property securing the loan. The servicer must allow the claimant no less than **90 days** to provide the documentation. Upon receipt of reasonable documentation, the claimant is then deemed a "successor in interest."

Within **ten days** of the claimant being deemed a successor in interest, the servicer must provide the successor with information in writing about the loan, including

- the balance;
- interest rate and interest reset dates and amounts;
- balloon payments;
- prepayment penalties (if any);
- default or delinquency status;
- monthly payment amount;
- payoff amount.

The servicer must allow the successor to apply to assume the loan subject to applicable investor requirements and guidelines. In addition, the servicer must allow the successor to simultaneously apply for a foreclosure prevention alternative, if available. The successor will have the same rights and remedies as a borrower under the Homeowner Bill of Rights.

The amendment will be codified as Section 2920.7 of the Civil Code.

For more information, please contact Andrew Noble (Severson & Werson) at awn@severson.com.

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