

Reminder: California Foreclosure Prevention Act Effective June 15, 2009

Just a reminder that the California Foreclosure Prevention Act becomes effective June 15, 2009. This new law delays the non-judicial foreclosure process by requiring an additional 90-day delay (beyond the current three-month period) between recording a notice of default and a notice of sale for certain residential properties. The law applies to:

1. Loans recorded between January 1, 2003 and January 1, 2008, inclusive,
2. The borrower occupies the property as his/her principal residence and occupied it at the time the loan became delinquent;
3. A notice of default has been recorded on the property; and
4. The loan is secured by a first lien on residential property that is located in California.

Note that the law applies to all mortgage loan servicers unless the mortgage loan servicer has implemented a comprehensive loan modification program (as specified by the law and regulations adopted by the DFI) *and* applied for and received an order from the DFI exempting the mortgage loan servicer from the additional 90-day rule. A mortgage loan servicer is defined as a person or entity that receives or has the right to receive installment payments of principal, interest or other amounts placed in escrow, pursuant to the terms of a mortgage loan or deed of trust, and performs services relating to that receipt or enforcement as the holder of the note (or on behalf of) the holder of the note.

Refer to BCG Handout #09-3A, “AB 7: California Moratorium (90-Day Delay) on Foreclosure Sales” (March 2009) for a detailed discussion of this new law.