

Disclaimer: The following outline contains general principles of law that cannot be applied to every case. Some issues covered are subject to developing case law and legislation that cannot be forecast or predicted with certainty. In the event that you encounter issues covered in this outline, you should review the appropriate response with counsel experienced in this area of law and should update the status of any legislation mentioned. No permission for the general public to use this Outline is granted by SLG

STATUTE	SUMMARY	CHANGE	COMMENTS	COVERED SERVICER
2923.5	Required small servicers to attempt contact with borrowers to discuss PFAs at least 30 days prior to recording NOD; requirement of declaration attached to NOD. Applies to first lien, owner-occupied only.	Now applies to both large and small servicers.		Large and small
2923.55	Required large servicers to attempt contact with borrowers to discuss PFAs at least 30 days prior to recording NOD; notify borrowers of right to obtain copies of the Note, Deed of Trust, Assignments, and Payment Histories; SCRA notice	Repealed.	Large servicers must comply with CC 2923.5 which contains same preforeclosure contact requirements, but does not require notice of right to obtain copies of the Note, etc. or SCRA notice.	Previously applied to large servicers only
2923.6	Net present value analysis suggested; dual tracking prohibited; modification denial must be in writing, state the reasons	Repealed except for non-binding net present value analysis suggestion.	Differing dual tracking provisions are contained in CC 2924.11.	Large servicers only

	for the denial, and description of other applicable FPAs; sale prohibited until 30 days after modification denial if application was complete unless no material change; appeal rights; no sale for 15 days after appeal is denied. Applies to first lien, owner-occupied only.			
2924.7	SPOC requirement Applies to first lien, owner-occupied only.	Unchanged		Large servicers only
2924.10	Written acknowledgement required within 5 days of receipt of modification application. Applied to large servicers only	Repealed.		Applied to large servicers only
2924.11	Requires that foreclosure not start or that an existing foreclosure stop if borrower has been approved for a modification and is performing or has provided a complete application for any foreclosure prevention alternative; late	Previously applied to small servicers only; now applies to all servicers.		Large and small servicers

	fees may not be charged while complete modification application is pending; if servicing is transferred after a modification has been approved in writing new servicer must honor. Applies to first lien, owner-occupied only.			
2924.12	Penalties for HBOR violations	Previously applied to small servicers only; now applies to all servicers.	Penalties only for violation of 2923.5 (pre-f/c contact), 2923.7 (SPOC), 2924.11 (stop f/c if mod app approved in writing) and 2924.17 (declaration attached to NOD).	Large and small servicers
2924.15	Sets forth portions of HBOR that apply to first lien owner occupied	Sections 2923.5, 2923.7 and 2924.11 apply to first lien owner occupied	Prior version applied to a greater number of parts of HBOR.	Large and small servicers, although Sections 2923.7 and 2924.11 apply to large servicers only

2924.17	Declaration attached to NOD, and the NOS, NOS, AOM and declarations filed in court relating to foreclosures, must be accurate, complete and supported by competent evidence or penalties may be imposed. In addition, before recording or filing any of these documents, servicer must review competent and reliable evidence to substantiate the borrower's default and the right to foreclose.	Financial penalties under Subsection (c) repealed. The rest of the statute remains in effect.	Although penalties removed, violation can be used under UCL to obtain damages. In addition, violation of this section is grounds for injunctive relief.	Large and small servicers. The declaration attached to the NOD is required for first lien owner-occupied only (see, Civil Code Section 2023.5(c)). The other documents (NOD, NOS, AOM and court declarations appear to apply to all
2924.18	Prohibits dual tracking and f/c if a modification application has been approved in writing. Applies to small servicers only.	Repealed.	The repealed statute was a narrower version of CC 2923.6 that applied to small servicers.	Small servicers only
2924.19	Penalties for HBOR violations for small servicers.	Repealed		Small servicers only
2924.25	Title company, not acting as trustee, not liable for recording NOD or NOS where there are HBOR violations if it does so in good faith	Repealed.	Replaced with Civil Code 2924.26 (and damages more limited)	Applied to title companies only

	and in the ordinary course of business.			
2924.26	Title company, not acting as trustee, not liable for recording NOD or NOS if it does so in good faith and in the ordinary course of business.		Replaces 2924.25. Protects against 2923.5 (pre-foreclosure contact requirement and 2924.11 (existing foreclosure stop if borrower has been approved for a modification and is performing) only.	Applies to title companies only