

THE SACRAMENTO BEE [sacbee.com](http://sacbee.com)

This story is taken from [Sacbee](#) / Business

---

# New foreclosure rules to start Monday

**[jwasserman@sacbee.com](mailto:jwasserman@sacbee.com)**

**Published Saturday, Jun. 13, 2009**

After a severe economic storm of more than 365,000 California foreclosures since early 2007, the state's long-awaited 90-day foreclosure moratorium law goes into effect Monday.

But it doesn't mean foreclosures will stop.

Supporters acknowledge the state is likely to see thousands more foreclosures before the crisis subsides. The law, indeed, goes into effect as lenders are ramping up repossessions following expiration of earlier moratoriums, according to housing trackers.

But the California Foreclosure Prevention Act, passed as Assembly Bill X2 7 by lawmakers in February and signed by Gov. Arnold Schwarzenegger, raises a new hurdle in the foreclosure process.

Backers say it will make lenders try harder to keep borrowers in homes. Starting Monday, loan servicers must prove to the state they have comprehensive loan modification programs in place – or be denied rights to foreclose on their own schedules.

"You have voluntary programs that they don't have to do," said Assemblyman Ted Lieu, a Torrance Democrat who was the author of the bill. "This creates an enforcement mechanism to force them to do it. The hammer is the 90-day foreclosure moratorium, which they all hate."

The law will largely press lenders to follow the Obama administration's Making Home Affordable Program that began in March. That encourages lenders to cut interest rates or rewrite loans to 40-year terms to get payments below 38 percent of a borrower's monthly income. Other options include reducing principal and tacking missed payments to the back of the loan. Under the law, California officials also can encourage short sales or deeds in lieu – options in which banks accept less than owed – for borrowers who want to leave or don't qualify for modifications.

"The vast majority of large servicers should have no trouble complying. They have already complied with similar requirements at the federal level," said Dustin Hobbs, spokesman for the California Mortgage Bankers Association.

As the nation's first statewide moratorium law of its kind, according to Lieu, hopes are it will "slow down the rate of foreclosures."

"For some people there's not much that can be done," said the lawmaker. "But there are a fair number of people on the bubble ... if they can get some assistance, they can stay in their home."

California Department of Corporations spokesman Mark Leyes said the state can't force or guarantee loan modifications. But the law is rooted in another state power that gives it leverage with lenders.

"What we do have control over is the legal process by which foreclosure is executed in this state," he said. Hence, adding 90 days to the process for those that don't comply.

Lieu said, "Not all banks are doing it at the same level. Some have good (modification efforts), some have bad ones and some have none."

Lenders have received widespread criticism for being overwhelmed by the foreclosure crisis and slow to rewrite loans despite receiving billions of dollars in federal assistance. Borrowers and nonprofit loan counseling agencies alike have complained of frustrating delays and snafus in the process.

On the front lines of the crisis it's easy to be wary about yet another new law or program.

"We're hopeful it will help, but in reality, time after time these things come out and the results are the same," said Pam Canada, executive director of the nonprofit counseling firm NeighborWorks Homeownership Center of Sacramento.

The new law represents a third evolution of California's response to a housing crisis that has severely damaged the economy and devastated local and state government budgets. In late 2007, Schwarzenegger entered into a voluntary agreement with subprime lenders to modify more loans.

Last summer, he signed Senate Bill 1137, which temporarily slowed banks' foreclosure machinery, making them work harder to contact borrowers and offer alternatives.

But foreclosures, while down in recent months, have continued in hard-hit California, especially in the capital region.

The region suffered almost 4,000 new foreclosures in January, February and March, and another 12,000 households are well behind on payments, according to Bay Area tracker ForeclosureRadar.

In summary, here's what will happen starting Monday:

- Lenders will submit applications to the state outlining their loan modification programs. That gives them a 30-day exemption from a moratorium.
- If the state OKs a lender's program, the firm is permanently exempt from the 90-day delay on foreclosures.

- If the state rejects the program as inadequate, a lender has 30 days to upgrade it and be reconsidered.

Leyes said consumers will be able to see a list of lenders that comply with the state's requirements by mid-July.

ShareThis

---

*Call The Bee's Jim Wasserman, (916) 321-1102. Read his blog on real estate, Home Front, at [www.sacbee.com/blogs](http://www.sacbee.com/blogs).*