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Friday, July 11, 2008

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► FORECLOSURE RELIEF BILL BECOMES LAW

This week, the State Legislature enacted foreclosure reform law to address the adverse effects of high foreclosure rates in California. The new law requires lenders to contact homeowners to explore options for avoiding foreclosure at least 30 days before filing a notice of default. It also requires owners acquiring property through foreclosure to maintain the exterior of vacant residential properties. The new law also extends from 30 to 60 days the time for residential tenants to move out of properties that have been foreclosed upon, unless other laws apply. These requirements will remain in effect until January 1, 2013. The full text of Senate Bill 1137 (Perata) is available at www.leginfo.ca.gov.

Highlights of the new law are as follows:

- **Contact Between Lender and Borrower:** Effective on or about September 8, 2008, a lender, trustee, or authorized agent may not file a notice of default until 30 days after contacting a borrower to assess the borrower's financial situation and explore options for avoiding foreclosure. A lender must generally contact the borrower in person or by telephone, or satisfy due diligence requirements for contacting a borrower. During the initial contact, the lender must inform the borrower of the right to request a meeting with the lender within 14 days. The lender must also give the borrower the toll-free number for finding a HUD-certified housing counseling agency. A subsequent notice of default must include the lender's declaration that it has contacted the borrower, tried with due diligence to contact the borrower, or the borrower has surrendered the property. A lender who had already filed a notice of default before the enactment of this law must include a similar declaration in the notice of sale. This requirement to contact borrowers applies to loans secured by owner-occupied residences made from 2003 to 2007. Certain exemptions apply if the borrower has filed for bankruptcy, surrendered the property, or contracted with a person or entity whose primary business is advising people, who have decided to leave their homes, on how to extend the foreclosure process and avoid their contractual obligations.

- **Maintenance of Vacant Properties:** Effective July 8, 2008, anyone who acquires property through foreclosure must maintain the exterior of vacant residential property. Violations of this law include permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action against trespassers or squatters, failing to take action to prevent mosquitoes from breeding in standing water, or other public nuisances. This law authorizes a governmental entity to impose a civil fine up to \$1,000 per day for any violation, as long as the owner has been given notice and an opportunity to remedy the violation. A violator must be given at least 14 days to begin, and 30 days to complete, such remediation before a fine can be assessed.

- **60-Day Notice to Terminate Tenants:** Effective July 8, 2008, a tenant or subtenant in possession of a rental housing unit that has been sold through foreclosure is generally entitled to a 60-day written notice to quit, not just 30 days. However, a borrower who remains on the property after foreclosure may be served a three-day notice to terminate. This law does not affect, among other things, rent-controlled properties with just-cause evictions. Effective on or about September 8, 2008, the lender, trustee, or authorized agent posting a notice of sale must also post and mail a specified notice of a tenant's right to a 60-day eviction notice from the new owner, unless other laws apply. This requirement to notify tenants of their rights applies to loans secured by residential real property where the borrower has a different billing address than the property address.

C.A.R. provides REALTORS® with many legal articles covering a wide range of topics of interest. Some of the new or newly revised legal articles available at <http://qa.car.org> are as follows:

- [REO Disclosure Chart.](#)
- [MLS Short Sale and REO Issues.](#)
- [Contingencies and Contingency Removal.](#)

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