

Temporary Foreclosure Relief enacted in California

The following information has been provided by the Insolvency Law Committee - Business Law Section of the [State Bar of California](#). The bulletin was prepared by [Gary Kaplan](#), Special Counsel at the law firm of [Farella Braun + Martel LLP in San Francisco](#).

In the bulletin, Gary Kaplan writes, "On November 30, 2009, the Departments of Corporations weighed in with its regulations in support of Assembly Bill 7, referred to as the California Foreclosure Prevention Act, which was enacted on February 20, 2009 and became effective upon the issuance of the first set of regulations in support of it. This marks the third regulatory agency to do so, following the Departments of Financial Institutions and Real Estate. The new regulations can be found at <http://www.corp.ca.gov/OLP/pdf/rm/0509-2B.pdf>. The Act provides a 90-day foreclosure delay for residential mortgage loans on owner-occupied homes where the first loan was recorded between January 1, 2003 and January 1, 2008, unless the loan is serviced by a financial institution that has a comprehensive loan modification program, as specified. The provisions of this legislation "sunset" on January 1, 2011."

What this means to you, the homeowner, is that generally, you will notice that after you receive a notice of default on your mortgage, your lender will begin sending you loan workout packages and gather information from you to determine whether you qualify for a loan modification. This seems to be what the lenders are doing during their 90-day moratorium. We have already seen that these [trial loan modifications are not working](#) to modify the majority of home in distress. This is either because the loan has been sold as an asset-backed security to investors, or the owner simply cannot afford the mortgage.

As I have said before, in [the 5 ways to stop foreclosure](#), only a bankruptcy and a court ordered injunction will legally stop a foreclosure. The sooner you talk to a bankruptcy lawyer to discuss your options, the more options you will have in creating the best course of action for your particular circumstances. Every case is unique.