

AMENDED IN SENATE JUNE 23, 2022

AMENDED IN ASSEMBLY MAY 19, 2022

AMENDED IN ASSEMBLY MARCH 17, 2022

AMENDED IN ASSEMBLY MARCH 9, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1837**

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**Introduced by Assembly Member Mia Bonta**  
(Coauthor: Senator Skinner)

February 7, 2022

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An act to amend Section 2924m of, to amend, repeal, and add Section 2924d of, and to add and repeal Section 2924o of, the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1837, as amended, Mia Bonta. Residential real property: foreclosure.

Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust and prescribes a procedure for the exercise of that power. Existing law authorizes a trustee, or their agent or successor in interest, upon the sale of property pursuant to a power of sale, to demand and receive from a beneficiary, or their agent or successor in interest, or deduct from the proceeds of the sale, specified reasonable costs and expenses that are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees. Existing law, until January 1, 2026, prescribes a process in connection with a trustee's sale of property under a power of sale contained in a deed of trust or mortgage on real property

containing 1 to 4 residential units, inclusive. Under existing law, if a prospective owner-occupant, as defined, is the last highest bidder, the date upon which specified conditions required of the bidder at the trustee sale to become final are met.

Existing law requires the trustee to require the prospective owner-occupant to provide certain information confirming the owner-occupant's status. Existing law, until January 1, 2026, grants eligible tenant buyers, as defined, and other eligible bidders, as defined, certain rights and priorities to make bids on the property after the initial trustee sale, and potentially to purchase it as the last and highest bidder, subject to certain requirements and timelines, if a prospective owner-occupant is not the last highest bidder. Existing law requires prospective owner-occupants, eligible tenant buyers, and other eligible bidders to submit affidavits or declarations under penalty of perjury in connection with this process.

This bill would revise the process described above and extend its operation until January 1, 2031. The bill would revise the definition of an eligible tenant buyer to, among other things, also describe natural people who are occupying property under a rental or lease agreement with a mortgagor's or trustor's predecessor in interest. The bill would also revise the definitions of an eligible nonprofit corporation and limited liability company for purposes of making them eligible bidders. The bill would expand affidavit and declaration requirements for eligible bidders if they are winning bidders to address new requirements that the bill would impose regarding the use of properties as affordable housing and the treatment of tenants following purchase. By extending the operation of the provisions described above, and by expanding the requirements for affidavits and declarations provided under penalty of perjury, the bill would expand the definition of a crime, thus imposing a state-mandated local program.

This bill would authorize a trustee to deduct fees of \$200 or  $\frac{1}{6}$  of 1% of the unpaid principal sum secured, whichever is greater, for providing services from the proceeds of the sale if an eligible tenant buyer or eligible bidder submits to the trustee either a bid or a nonbinding written notice of intent to place a bid. The bill would revise the dates when a trustee is to receive specified documents to account for weekends and holidays and would prohibit a trustee, on the last day that bids are eligible to be received, from receiving any bid that is not sent by certified mail or overnight mail.

This bill would require a trustee or its authorized agent to send specified information to the Attorney General, if the winning bidder at a trustee sale to which this process applies is an eligible bidder, as defined. The bill would authorize the Attorney General, a county counsel, a city attorney, or a district attorney to bring an action to enforce these provisions. The bill would specify that the pendency of a determination of finality under the process described above is prohibited from causing termination of any hazard insurance coverage in effect at the time of the trustee’s sale. The bill would require specified successful eligible bidders at foreclosure sales subject to this process to maintain properties as affordable housing for lower income households, as defined, for 30 years, or a greater period of time, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2924d of the Civil Code is amended to  
2 read:  
3 2924d. (a) (1) Commencing with the date that the notice of  
4 sale is deposited in the mail, as provided in Section 2924b, and  
5 until the property is sold pursuant to the power of sale contained  
6 in the mortgage or deed of trust, a beneficiary, trustee, mortgagee,  
7 or their agent or successor in interest may demand and receive  
8 from a trustor, mortgagor, or their agent or successor in interest  
9 or any beneficiary under a subordinate deed of trust, or any other  
10 person having a subordinate lien or encumbrance of record those  
11 reasonable costs and expenses, to the extent allowed by subdivision  
12 (c) of Section 2924c, that are actually incurred in enforcing the  
13 terms of the obligation and trustee’s or attorney’s fees that are  
14 hereby authorized to be in an amount as follows:  
15 (A) If the unpaid principal sum secured is fifty thousand dollars  
16 (\$50,000) or less, then in a base amount that does not exceed four  
17 hundred seventy-five dollars (\$475).

1 (B) If the unpaid principal sum secured is greater than fifty  
2 thousand dollars (\$50,000) but does not exceed one hundred fifty  
3 thousand dollars (\$150,000), then in a base amount that does not  
4 exceed four hundred seventy-five dollars (\$475) plus 1 percent of  
5 the unpaid principal sum secured exceeding fifty thousand dollars  
6 (\$50,000).

7 (C) If the unpaid principal sum secured is greater than one  
8 hundred fifty thousand dollars (\$150,000) but does not exceed five  
9 hundred thousand dollars (\$500,000), then in a base amount that  
10 does not exceed four hundred ten dollars (\$410) plus 1 percent of  
11 the unpaid principal sum secured exceeding fifty thousand dollars  
12 (\$50,000) up to and including one hundred fifty thousand dollars  
13 (\$150,000), plus one-half of 1 percent of any portion of the unpaid  
14 principal sum secured exceeding one hundred fifty thousand dollars  
15 (\$150,000).

16 (D) If the unpaid principal sum secured exceeds five hundred  
17 thousand dollars (\$500,000), then in a base amount that does not  
18 exceed four hundred ten dollars (\$410) plus 1 percent of the unpaid  
19 principal sum secured exceeding fifty thousand dollars (\$50,000)  
20 up to and including one hundred fifty thousand dollars (\$150,000),  
21 plus one-half of 1 percent of any portion of the unpaid principal  
22 sum secured exceeding one hundred fifty thousand dollars  
23 (\$150,000) up to and including five hundred thousand dollars  
24 (\$500,000), plus one-quarter of 1 percent of any portion of the  
25 unpaid principal sum secured exceeding five hundred thousand  
26 dollars (\$500,000).

27 (2) For purposes of this subdivision, the unpaid principal sum  
28 secured shall be determined as of the date the notice of default is  
29 recorded. Any charge for trustee's or attorney's fees authorized  
30 by this subdivision shall be conclusively presumed to be lawful  
31 and valid where that charge does not exceed the amounts authorized  
32 in this subdivision. Any charge for trustee's or attorney's fees  
33 made pursuant to this subdivision shall be in lieu of and not in  
34 addition to those charges authorized by subdivision (d) of Section  
35 2924c.

36 (b) (1) Upon the sale of property pursuant to a power of sale,  
37 a trustee, or their agent or successor in interest, may demand and  
38 receive from a beneficiary, or their agent or successor in interest,  
39 or may deduct from the proceeds of the sale, those reasonable costs  
40 and expenses, to the extent allowed by subdivision (c) of Section

1 2924c, that are actually incurred in enforcing the terms of the  
2 obligation and trustee's or attorney's fees that are hereby authorized  
3 to be in an amount which does not exceed four hundred  
4 seventy-five dollars (\$475) or 1 percent of the unpaid principal  
5 sum secured, whichever is greater. For purposes of this subdivision,  
6 the unpaid principal sum secured shall be determined as of the  
7 date the notice of default is recorded.

8 (2) In addition to the amounts authorized under paragraph (1),  
9 if at least one eligible tenant buyer or eligible bidder submits to  
10 the trustee either a bid or a nonbinding written notice of intent to  
11 place a bid pursuant to paragraph (2) of subdivision (c) of Section  
12 2924m, the trustee may deduct from the proceeds of the sale  
13 trustee's or attorney's fees for providing services pursuant to  
14 Section 2924m that are hereby authorized to be in an amount which  
15 does not exceed two hundred dollars (\$200) or one-sixth of 1  
16 percent of the unpaid principal sum secured, whichever is greater.

17 (3) Any charge for trustee's or attorney's fees authorized by  
18 this subdivision shall be conclusively presumed to be lawful and  
19 valid where that charge does not exceed the amount authorized  
20 herein. Any charges for trustee's or attorney's fees made pursuant  
21 to this subdivision shall be in lieu of and not in addition to those  
22 charges authorized by subdivision (a) of this section and  
23 subdivision (d) of Section 2924c.

24 (c) (1) No person shall pay or offer to pay or collect any rebate  
25 or kickback for the referral of business involving the performance  
26 of any act required by this article.

27 (2) Any person who violates this subdivision shall be liable to  
28 the trustor for three times the amount of any rebate or kickback,  
29 plus reasonable attorney's fees and costs, in addition to any other  
30 remedies provided by law.

31 (3) No violation of this subdivision shall affect the validity of  
32 a sale in favor of a bona fide purchaser or the rights of an  
33 encumbrancer for value without notice.

34 (d) It shall not be unlawful for a trustee to pay or offer to pay a  
35 fee to an agent or subagent of the trustee for work performed by  
36 the agent or subagent in discharging the trustee's obligations under  
37 the terms of the deed of trust. Any payment of a fee by a trustee  
38 to an agent or subagent of the trustee for work performed by the  
39 agent or subagent in discharging the trustee's obligations under  
40 the terms of the deed of trust shall be conclusively presumed to

1 be lawful and valid if the fee, when combined with other fees of  
 2 the trustee, does not exceed in the aggregate the trustee’s fee  
 3 authorized by subdivision (d) of Section 2924c or subdivision (a)  
 4 or (b) of this section.

5 (e) When a court issues a decree of foreclosure, it shall have  
 6 discretion to award attorney’s fees, costs, and expenses as are  
 7 reasonable, if provided for in the note, deed of trust, or mortgage,  
 8 pursuant to Section 580c of the Code of Civil Procedure.

9 (f) This section shall remain in effect only until January 1, 2031,  
 10 and as of that date is repealed.

11 SEC. 2. Section 2924d is added to the Civil Code, to read:

12 2924d. (a) (1) Commencing with the date that the notice of  
 13 sale is deposited in the mail, as provided in Section 2924b, and  
 14 until the property is sold pursuant to the power of sale contained  
 15 in the mortgage or deed of trust, a beneficiary, trustee, mortgagee,  
 16 or their agent or successor in interest may demand and receive  
 17 from a trustor, mortgagor, or their agent or successor in interest  
 18 or any beneficiary under a subordinate deed of trust, or any other  
 19 person having a subordinate lien or encumbrance of record those  
 20 reasonable costs and expenses, to the extent allowed by subdivision  
 21 (c) of Section 2924c, that are actually incurred in enforcing the  
 22 terms of the obligation and trustee’s or attorney’s fees that are  
 23 hereby authorized to be in an amount as follows:

24 (A) If the unpaid principal sum secured is fifty thousand dollars  
 25 (\$50,000) or less, then in a base amount that does not exceed four  
 26 hundred seventy-five dollars (\$475).

27 (B) If the unpaid principal sum secured is greater than fifty  
 28 thousand dollars (\$50,000) but does not exceed one hundred fifty  
 29 thousand dollars (\$150,000), then in a base amount that does not  
 30 exceed four hundred seventy-five dollars (\$475) plus 1 percent of  
 31 the unpaid principal sum secured exceeding fifty thousand dollars  
 32 (\$50,000).

33 (C) If the unpaid principal sum secured is greater than one  
 34 hundred fifty thousand dollars (\$150,000) but does not exceed five  
 35 hundred thousand dollars (\$500,000), then in a base amount that  
 36 does not exceed four hundred ten dollars (\$410) plus 1 percent of  
 37 the unpaid principal sum secured exceeding fifty thousand dollars  
 38 (\$50,000) up to and including one hundred fifty thousand dollars  
 39 (\$150,000), plus one-half of 1 percent of any portion of the unpaid

1 principal sum secured exceeding one hundred fifty thousand dollars  
2 (\$150,000).

3 (D) If the unpaid principal sum secured exceeds five hundred  
4 thousand dollars (\$500,000), then in a base amount that does not  
5 exceed four hundred ten dollars (\$410) plus 1 percent of the unpaid  
6 principal sum secured exceeding fifty thousand dollars (\$50,000)  
7 up to and including one hundred fifty thousand dollars (\$150,000),  
8 plus one-half of 1 percent of any portion of the unpaid principal  
9 sum secured exceeding one hundred fifty thousand dollars  
10 (\$150,000) up to and including five hundred thousand dollars  
11 (\$500,000), plus one-quarter of 1 percent of any portion of the  
12 unpaid principal sum secured exceeding five hundred thousand  
13 dollars (\$500,000).

14 (2) For purposes of this subdivision, the unpaid principal sum  
15 secured shall be determined as of the date the notice of default is  
16 recorded. Any charge for trustee's or attorney's fees authorized  
17 by this subdivision shall be conclusively presumed to be lawful  
18 and valid where that charge does not exceed the amounts authorized  
19 in this subdivision. Any charge for trustee's or attorney's fees  
20 made pursuant to this subdivision shall be in lieu of and not in  
21 addition to those charges authorized by subdivision (d) of Section  
22 2924c.

23 (b) Upon the sale of property pursuant to a power of sale, a  
24 trustee, or their agent or successor in interest, may demand and  
25 receive from a beneficiary, or their agent or successor in interest,  
26 or may deduct from the proceeds of the sale, those reasonable costs  
27 and expenses, to the extent allowed by subdivision (c) of Section  
28 2924c, that are actually incurred in enforcing the terms of the  
29 obligation and trustee's or attorney's fees that are hereby authorized  
30 to be in an amount which does not exceed four hundred  
31 seventy-five dollars (\$475) or 1 percent of the unpaid principal  
32 sum secured, whichever is greater. For purposes of this subdivision,  
33 the unpaid principal sum secured shall be determined as of the  
34 date the notice of default is recorded. Any charge for trustee's or  
35 attorney's fees authorized by this subdivision shall be conclusively  
36 presumed to be lawful and valid where that charge does not exceed  
37 the amount authorized herein. Any charges for trustee's or  
38 attorney's fees made pursuant to this subdivision shall be in lieu  
39 of and not in addition to those charges authorized by subdivision  
40 (a) of this section and subdivision (d) of Section 2924c.

1 (c) (1) No person shall pay or offer to pay or collect any rebate  
2 or kickback for the referral of business involving the performance  
3 of any act required by this article.

4 (2) Any person who violates this subdivision shall be liable to  
5 the trustor for three times the amount of any rebate or kickback,  
6 plus reasonable attorney’s fees and costs, in addition to any other  
7 remedies provided by law.

8 (3) No violation of this subdivision shall affect the validity of  
9 a sale in favor of a bona fide purchaser or the rights of an  
10 encumbrancer for value without notice.

11 (d) It shall not be unlawful for a trustee to pay or offer to pay a  
12 fee to an agent or subagent of the trustee for work performed by  
13 the agent or subagent in discharging the trustee’s obligations under  
14 the terms of the deed of trust. Any payment of a fee by a trustee  
15 to an agent or subagent of the trustee for work performed by the  
16 agent or subagent in discharging the trustee’s obligations under  
17 the terms of the deed of trust shall be conclusively presumed to  
18 be lawful and valid if the fee, when combined with other fees of  
19 the trustee, does not exceed in the aggregate the trustee’s fee  
20 authorized by subdivision (d) of Section 2924c or subdivision (a)  
21 or (b) of this section.

22 (e) When a court issues a decree of foreclosure, it shall have  
23 discretion to award attorney’s fees, costs, and expenses as are  
24 reasonable, if provided for in the note, deed of trust, or mortgage,  
25 pursuant to Section 580c of the Code of Civil Procedure.

26 (f) This section shall be operative January 1, 2031.

27 SEC. 3. Section 2924m of the Civil Code is amended to read:  
28 2924m. (a) For purposes of this section:

29 (1) “Prospective owner-occupant” means a natural person who  
30 presents to the trustee an affidavit or declaration, pursuant to  
31 Section 2015.5 of the Code of Civil Procedure, that:

32 (A) They will occupy the property as their primary residence  
33 within 60 days of the trustee’s deed being recorded.

34 (B) They will maintain their occupancy for at least one year.

35 (C) They are not any of the following:

36 (i) The mortgagor or trustor.

37 (ii) The child, spouse, or parent of the mortgagor or trustor.

38 (iii) The grantor of a living trust that was named in the title to  
39 the property when the notice of default was recorded.



1 (iv) An employee, officer, or member of the mortgagor or  
2 trustor.

3 (v) A person with an ownership interest in the mortgagor, unless  
4 the mortgagor is a publicly traded company.

5 (D) They are not acting as the agent of any other person or entity  
6 in purchasing the real property.

7 (2) “Eligible tenant buyer” means a natural person who at the  
8 time of the trustee’s sale:

9 (A) Is occupying the real property as their primary residence.

10 (B) Is occupying the real property under a rental or lease  
11 agreement entered into as the result of an arm’s length transaction  
12 with the mortgagor or trustor, or with the mortgagor or trustor’s  
13 predecessor in interest, on a date prior to the recording of the notice  
14 of default against the property, and who attaches ~~a copy of the~~  
15 ~~dated and signed rental or lease agreement, if one is available,~~  
16 *evidence demonstrating the existence of the tenancy* to the affidavit  
17 or declaration required pursuant to subparagraph (B) of paragraph  
18 (2) of subdivision (c).

19 (C) Is not the mortgagor or trustor, or the child, spouse, or parent  
20 of the mortgagor or trustor.

21 (3) “Eligible bidder” means any of the following:

22 (A) An eligible tenant buyer.

23 (B) A prospective owner-occupant.

24 (C) A nonprofit association, nonprofit corporation, or  
25 cooperative corporation in which an eligible tenant buyer is a  
26 voting member or director.

27 (D) An eligible nonprofit corporation with all of the following  
28 attributes:

29 (i) It has a determination letter from the Internal Revenue  
30 Service affirming its tax-exempt status pursuant to Section  
31 501(c)(3) of the Internal Revenue Code and is not a private  
32 foundation as that term is defined in Section 509 of the Internal  
33 Revenue Code.

34 (ii) It has its principal place of business in California.

35 (iii) The primary residences of all board members are located  
36 in California.

37 (iv) One of its primary activities is the development and  
38 preservation of affordable rental or homeownership housing in  
39 California.

1 (E) A limited liability company wholly owned by one or more  
 2 eligible nonprofit corporations as described in subparagraph (C)  
 3 or (D).

4 (F) A community land trust, as defined in clause (ii) of  
 5 subparagraph (C) of paragraph (11) of subdivision (a) of Section  
 6 402.1 of the Revenue and Taxation Code.

7 (G) A limited-equity housing cooperative as defined in Section  
 8 817.

9 (H) The state, the Regents of the University of California, a  
 10 county, city, district, public authority, or public agency, and any  
 11 other political subdivision or public corporation in the state.

12 (4) *“Evidence demonstrating the existence of the tenancy”*  
 13 *means a copy of the dated and signed rental or lease agreement*  
 14 *or, if a copy of the dated and signed rental or lease agreement is*  
 15 *not available, then one of the following:*

16 (A) *Evidence of rent payments made for the property by the*  
 17 *person asserting that they are an eligible tenant buyer for the six*  
 18 *months prior to the recording of the notice of default.*

19 (B) *Copies of utility bills for the property payable by the person*  
 20 *asserting that they are an eligible tenant buyer for the six months*  
 21 *prior to the recording of the notice of default.*

22 (b) Nothing in this section shall prevent an eligible tenant buyer  
 23 who meets the conditions set forth in paragraph (1) of subdivision  
 24 (a) from being deemed a prospective owner-occupant.

25 (c) A trustee’s sale of property under a power of sale contained  
 26 in a deed of trust or mortgage on real property containing one to  
 27 four residential units pursuant to Section 2924g shall not be deemed  
 28 final until the earliest of the following:

29 (1) If a prospective owner-occupant is the last and highest bidder  
 30 at the trustee’s sale, the date upon which the conditions set forth  
 31 in Section 2924h for the sale to become final are met. The  
 32 prospective owner-occupant shall submit to the trustee the affidavit  
 33 or declaration described in paragraph (1) of subdivision (a) at the  
 34 trustee’s sale or to the trustee by 5 p.m. on the next business day  
 35 following the trustee’s sale.

36 (2) Fifteen days after the trustee’s sale unless at least one eligible  
 37 tenant buyer or eligible bidder submits to the trustee either a bid  
 38 pursuant to paragraph (3) or (4) or a nonbinding written notice of  
 39 intent to place such a bid. The bid or written notice of intent to  
 40 place a bid shall:

1 (A) Be sent to the trustee by certified mail, overnight delivery,  
2 or other method that allows for confirmation of the delivery date.

3 (B) Be accompanied by an affidavit or declaration, pursuant to  
4 Section 2015.5 of the Code of Civil Procedure, identifying the  
5 category set forth in paragraph (3) of subdivision (a) to which the  
6 person or entity submitting the bid or nonbinding written notice  
7 of intent belongs and stating that the person meets the criteria for  
8 that category. If the winning bid is placed by an eligible bidder  
9 described in subparagraphs (C) to (G), inclusive, of paragraph (3)  
10 of subdivision (a), the affidavit or declaration shall affirm the  
11 bidder's duty to comply with subdivision (a) of Section 2924o for  
12 the benefit of tenants occupying the property.

13 (C) Be received by the trustee no later than 5 p.m. on the 15th  
14 day after the trustee's sale, or the next business day following the  
15 15th day if the 15th day is a weekend or holiday.

16 (D) Contain a current telephone number and return mailing  
17 address for the person submitting the bid or nonbinding written  
18 notice of intent.

19 (3) (A) The date upon which a representative of all of the  
20 eligible tenant buyers submits to the trustee a bid in an amount  
21 equal to the full amount of the last and highest bid at the trustee's  
22 sale, in the form of cash, a cashier's check drawn on a state or  
23 national bank, a cashier's check drawn by a state or federal credit  
24 union, or a cashier's check drawn by a state or federal savings and  
25 loan association, savings association, or savings bank specified in  
26 Section 5102 of the Financial Code and authorized to do business  
27 in this state. This bid shall:

28 (i) Be sent to the trustee by certified mail, overnight delivery,  
29 or other method that allows for confirmation of the delivery date  
30 and shall

31 (ii) Be accompanied by an affidavit or declaration, pursuant to  
32 Section 2015.5 of the Code of Civil Procedure, stating that the  
33 persons represented meet the criteria set forth in paragraph (2) of  
34 subdivision (a), and that the persons represented are all of the  
35 eligible tenant buyers.

36 (iii) Meet either of the following criteria:

37 (I) Be received by the trustee no later than 5 p.m. on the 15th  
38 day after the trustee's sale, the next business day following the  
39 15th day if the 15th day is a weekend or holiday.

- 1 (II) Be received by the trustee no later than 5 p.m. on the 45th
- 2 day after the trustee’s sale, or the next business day following the
- 3 45th day if the 45th day is a weekend or holiday, if at least one of
- 4 the eligible tenant buyers submitted a nonbinding written notice
- 5 of intent to place a bid pursuant to paragraph (2).
- 6 (iv) Contain a current telephone number and return mailing
- 7 address for the person submitting the bid.
- 8 (v) Be limited to a single bid amount and not contain instructions
- 9 for successive bid amounts.
- 10 (B) If the conditions in this paragraph are satisfied, the eligible
- 11 tenant buyers shall be deemed the last and highest bidder pursuant
- 12 to the power of sale.
- 13 (4) (A) Forty-five days after the trustee’s sale, except that during
- 14 the 45-day period, an eligible bidder may submit to the trustee a
- 15 bid in an amount that exceeds the last and highest bid at the
- 16 trustee’s sale, in the form of cash, a cashier’s check drawn on a
- 17 state or national bank, a cashier’s check drawn by a state or federal
- 18 credit union, or a cashier’s check drawn by a state or federal
- 19 savings and loan association, savings association, or savings bank
- 20 specified in Section 5102 of the Financial Code and authorized to
- 21 do business in this state. The bid shall:
- 22 (i) Be sent to the trustee by certified mail, overnight delivery,
- 23 or other method that allows for confirmation of the delivery date.
- 24 (ii) Be accompanied by an affidavit or declaration, pursuant to
- 25 Section 2015.5 of the Code of Civil Procedure, identifying the
- 26 category set forth in paragraph (3) of subdivision (a) to which the
- 27 eligible bidder belongs and stating that the eligible bidder meets
- 28 the criteria for that category.
- 29 (iii) Be received by the trustee no later than 5 p.m. on the 45th
- 30 day after the trustee’s sale, or the next business day following the
- 31 45th day if the 45th day is a weekend or holiday, if the eligible
- 32 bidder submitted a nonbinding written notice of intent to bid
- 33 pursuant to paragraph (2). Notwithstanding clause (i), on the last
- 34 day that bids are eligible to be received by the trustee under this
- 35 clause, the trustee shall not receive any bid that is not sent by
- 36 certified mail or overnight mail.
- 37 (iv) Contain a current telephone number and return mailing
- 38 address for the person submitting the bid.
- 39 (B) As of 5 p.m. on the 45th day after the trustee’s sale, if one
- 40 or more eligible bidders has submitted a bid that meets the

1 conditions in this paragraph, the eligible bidder that submitted the  
2 highest bid shall be deemed the last and highest bidder pursuant  
3 to the power of sale. The trustee shall return any losing bid to the  
4 eligible bidder that submitted it.

5 (d) The trustee may reasonably rely on affidavits and  
6 declarations regarding bidder eligibility received under this section.  
7 The affidavit or declaration of the winning bidder shall be attached  
8 as an exhibit to the trustee's deed and recorded.

9 (e) If the conditions set forth in paragraph (1) of subdivision (c)  
10 for a sale to be deemed final are not met, then:

11 (1) Not later than 48 hours after the trustee's sale of property  
12 under Section 2924g, the trustee or an authorized agent shall post  
13 on the internet website set forth on the notice of sale, as required  
14 under paragraph (8) of subdivision (b) of Section 2924f, the  
15 following information:

16 (A) The date on which the trustee's sale took place.

17 (B) The amount of the last and highest bid at the trustee's sale.

18 (C) An address at which the trustee can receive documents sent  
19 by United States mail and by a method of delivery providing for  
20 overnight delivery.

21 (2) The information required to be posted on the internet website  
22 under paragraph (1) shall also be made available not later than 48  
23 hours after the trustee's sale of property under Section 2924g by  
24 calling the telephone number set forth on the notice of sale as  
25 required under paragraph (8) of subdivision (b) of Section 2924f.

26 (3) The information required to be provided under paragraphs  
27 (1) and (2) shall be made available using the file number assigned  
28 to the case that is set forth on the notice of sale as required under  
29 paragraph (8) of subdivision (b) of Section 2924f.

30 (4) The information required to be provided under paragraphs  
31 (1) and (2) shall be made available for a period of not less than 45  
32 days after the sale of property under Section 2924g.

33 (5) A disruption of any of these methods of providing the  
34 information required under paragraphs (1) and (2) to allow for  
35 reasonable maintenance or due to a service outage shall not be  
36 deemed to be a violation of this subdivision.

37 (6) The information to be provided by the trustee to eligible  
38 bidders or to persons considering whether to submit a bid or notice  
39 of intent to bid pursuant to this section is limited to the information  
40 set forth in paragraph (1).

1 (f) A prospective owner-occupant shall not be in violation of  
 2 this section if a legal owner’s compliance with the requirements  
 3 of Section 2924n renders them unable to occupy the property as  
 4 their primary residence within 60 days of the trustee’s deed being  
 5 recorded.

6 (g) This section shall prevail over any conflicting provision of  
 7 Section 2924h.

8 (h) For trustee’s sales where the winning bidder is an eligible  
 9 bidder under this section, the trustee or an authorized agent shall  
 10 send the following information to the office of the Attorney General  
 11 within 15 days of the sale being deemed final:

12 (1) The dates when the trustee’s sale took place and when it  
 13 was deemed final.

14 (2) The name of the winning bidder.

15 (3) The street address and assessor’s parcel number of the  
 16 subject property.

17 (4) A copy of the trustee’s deed, as recorded, including the  
 18 attached affidavit or declaration of the winning bidder.

19 (5) The category set forth in paragraph (3) of subdivision (a) to  
 20 which the eligible bidder belongs.

21 (i) The Attorney General, a county counsel, a city attorney, or  
 22 a district attorney may bring an action for specific performance or  
 23 any other remedy at equity or at law to enforce this section.

24 (j) The pendency of a determination of finality under subdivision  
 25 (c) shall not cause termination of any hazard insurance coverage  
 26 in effect at the time of the trustee’s sale.

27 (k) This section shall remain in effect only until January 1, 2031,  
 28 and as of that date is repealed, unless a later enacted statute that  
 29 is enacted before January 1, 2031, deletes or extends that date.

30 (l) The amendments made to this section by the bill adding this  
 31 subdivision shall become operative on January 1, 2022.

32 (m) The amendments made to this section by the bill adding  
 33 this subdivision shall become operative on January 1, 2023.

34 SEC. 4. Section 2924o is added to the Civil Code, to read:

35 2924o. (a) On and after January 1, 2023, in the case of any  
 36 real property purchased pursuant to Section 2924m by an eligible  
 37 bidder described in subparagraphs (C) to (G), inclusive, of  
 38 paragraph (3) of subdivision (a) of that section, the property shall  
 39 be maintained as affordable housing for lower income households

1 for 30 years from the date the trustee’s deed is issued, or a greater  
2 period of time if any of the following apply:

3 (1) The terms of a federal, state, or local grant, tax credit, or  
4 other source of project financing funding the purchase or  
5 maintenance of the property by an eligible bidder require a longer  
6 term.

7 (2) The property becomes subject to a contract as described in  
8 paragraph (11) of subdivision (a) of Section 402.1 of the Revenue  
9 and Taxation Code.

10 (b) Tenants, if any, of a property purchased pursuant to Section  
11 2924m by an eligible bidder described in subparagraphs (C) to  
12 (G), inclusive, of paragraph (3) of subdivision (a) of that section  
13 may exercise any rights available at equity or in law, including,  
14 without limitation, to defend an unlawful detainer or institute an  
15 action to enforce this section.

16 (c) For purposes of this section, “lower income households”  
17 has the same meaning as described in Section 50079.5 of the Health  
18 and Safety Code.

19 (d) This section shall remain in effect only until January 1, 2031,  
20 and as of that date is repealed, unless a later enacted statute that  
21 is enacted before January 1, 2031, deletes or extends that date.

22 SEC. 5. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.