

Foreclosure Rescue Scams Producing Bad Laws

Contributed by Administrator
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by Alan Smith

The proliferation of unscrupulous foreclosure "rescuers" who use deceptive and fraudulent schemes to fleece homeowners in financial distress out of money, property or both, have led some states to propose and pass laws aimed at putting a stop to these scams. (Read more about scams here).

Unfortunately these new laws reduce the options open to homeowners in foreclosure. They also make it more difficult, if not impossible, for a foreclosure investor to develop an honest win-win scenario that would benefit both the troubled homeowner and the investor.

For example the Maryland legislature recently passed senate bill 761 that requires the investor to pay to the homeowner in foreclosure 82% of the net proceeds from the resale of the property. With the average deal buying, holding and selling costs equaling 15% of the resale, not including repairs or profit, the margins are way to thin for an investor to purchase the house. (Read more about the math here). This law virtually eliminates the option of an investor purchase with this formula.

How is that good for the owner?

The Maryland law also gives the homeowner a 10 business day period from the date of signing any agreement with an investor to rescind the contract. In California, our law states we must give the sellers 5 business days to change their mind OR the morning of the auction, whichever comes first. That makes sense. But is that the case with Maryland? If not, the Maryland law actually hurts the homeowners in purports to protect by limiting their property rights and their right to enter into the best contract for their circumstances.

Illinois has a similar law in the works that calls for payment to the distressed homeowner of 82% of fair market value as determined by an appraiser. It is not clear who gets to pick the appraiser. And quite possibly, this process would just feed the fraudulent appraisal business.

Again, the Illinois law would prevent an investor from reselling at a slight discount to attract offers in a buyer's market. Any discount would come out of the investor's already slim profit margin and make a mutually beneficial deal for owner and investor impossible to do.

Moreover, the Illinois law calls for full payment of all liens against a property in foreclosure when purchased by an investor. Therefore, an investor will no longer be able to buy subject to existing loans and liens. (Read more about this here). This will result in many more homes going to auction with the loss of all the owners' equity.

As we have often said, whenever money and property are involved, you'll find sharks in the water. And the practices of these bandits are despicable and usually criminal in some respect. We understand the concern of state attorneys general and lawmakers about the harm being done to people in distress by unscrupulous operators.

But, remember this: There are already laws on the books for dealing with fraud, forgery, and deception. Your State Government should not interfere with free markets. Making new laws is not the answer. The solution lies in enforcing the laws we already have. We applaud the efforts of law enforcement agencies to put a stop to the scammers and convict those guilty of criminal acts.

We join attorney Bill Bronchick from Legalwiz.com in strongly urging those of you who live in states proposing or that have passed the kind of legislation we're seeing to contact your representatives. Make sure you read his story "Big Brother is Watching YOU! New (BAD) Legislation Coming Your Way".

You must put pressure on them to reject or amend these laws to remove the obvious inequities and restore full property rights to homeowners in distress.

Next month we'll take a look at legislation pending or passed in North Carolina, Colorado, and Texas and update you on any new developments.

The foregoing information does not constitute legal advice, nor does the reading of this information create an attorney client relationship with the reader. For proper application of the information contained in these articles, you are advised to seek the assistance of an attorney whose practice emphasizes landlord-tenant law.

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