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New law helps protect distressed homeowners

SEATTLE - A new state law to help protect financially strapped homeowners from equity skimming and foreclosure rescue scams in Washington goes into effect on June 12. The new law provides safeguards for people trying to stop the loss of their home and requires new disclosures and responsibilities for individuals claiming to help homeowners avoid foreclosure.

Attorney General Rob McKenna requested House Bill 2791 to reduce foreclosure rescue schemes that promise to save homes, but all too often add insult to injury, by either stripping the equity from the property and leaving the homeowner with nothing, or by charging exorbitant fees for unnecessary or non-existent services. The bill was amended through the process and signed into law on March 31.

The new law addresses two common types of foreclosure rescue scheme perpetrators:

- **Distressed home purchasers**, who lead homeowners to sign over the deed to their property by promising to sell the home back once the homeowners get back on their feet financially and allowing them to remain in the home as tenants in the meantime. The homeowners frequently do not understand the transaction, receive little, if any, financial benefit and are ultimately stripped of both their home and whatever equity they had in it.
- **Distressed home consultants**, who offer phantom help to homeowners in financial distress, typically with false promises to “stop the foreclosure” or “save the home.” The consulting services are often of little or no value and serve only to delay homeowners from seeking real assistance from qualified professionals such as mortgage counselors or attorneys.

Distressed Homeowner Protections

- Distressed home purchasers must provide homeowners with a written contract completely describing the terms of the sale and giving the homeowner a right to cancel the sale for five days after the sale.
- Prior to the sale, the purchaser must verify that the homeowner has the ability to make rental payments and to buy the home back.
- If the homeowner is unable to buy the home back, he or she must receive at least 82 percent of the fair market value of the home at the time homeowner loses possession of the home.
- A homeowner injured by a violation of the statute may collect up to three times the amount of actual damages, not to exceed \$100,000.

Distressed Home Consultant Provisions

- Distressed home consultants must provide homeowners with a written contract listing all services and charges.

- The consultant has what is called a “fiduciary duty” to the homeowner, meaning the consultant must act at all times in the best interests of the homeowner.
- Because the Legislature did not exempt licensed real estate sales persons from the law (unlike similar statutes in other states), real estate sellers may be asked to sign a revised listing agreement limiting the services offered by the real estate agent or broker or an addendum clarifying the homeowner’s status as to foreclosure. Without new or revised agreements, brokers and agents risk unanticipated liability.

Tips for Distressed Homeowners

- **Free foreclosure and homeownership counseling is available** from the state of Washington. Contact the Washington State Homeownership Information Hotline at 1.877.894.HOME (1.877.894.4663) or visit www.homeownership.wa.gov for a list of counselors in your area.
- **Consider alternatives to foreclosure.** Your lender may be able to temporarily reduce your mortgage payments or assist you with restructuring or refinancing your loan so that you can stay in your home. If you're unable to afford the house long-term, you may be able to sell before the foreclosure sale and save some of your equity.
- **Approach any unsolicited offer of assistance with caution.** Seek professional assistance, but carefully select the professionals you choose to help you. Ask for references and check them. Check with state licensing authorities.
- **Ignore signs, fliers and hand-written notes offering foreclosure help.** Scam artists typically advertise their “services” on posters pinned to telephone poles and fliers dropped on your porch. They also contact people whose homes are listed in public foreclosure notices.
- **Read everything and don’t sign any papers you don’t understand.** Once you sign papers, insist on immediately receiving copies that you can keep of all the documents.

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