

Foreclosure



Scams

HOW TO AVOID THEM

consumer *brief*

The thought of losing one's home through foreclosure is a frightening prospect. In desperation, many homeowners fall victim to con artists who offer to help them save their homes, but ultimately make the situation worse.

These con artists cheat homeowners out of thousands of dollars and their homes through deceit, deception and lies.

WHAT IS FORECLOSURE?

Foreclosure is the equitable proceeding in which a bank or other secured creditor sells or repossesses a parcel of real property (immovable property) due to the owner's failure to comply with an agreement between the lender and borrower called a "mortgage" or "deed of trust."

THE SCAM: TRANSFER OF DEED

Homeowners are urged to transfer their property deed for a minimal payment offered by the con artist. The con artist may promise to transfer the deed back after certain conditions are met. A homeowner may receive a few thousand dollars in return for signing away his or her ownership of the home but can end up losing tens of thousands of dollars in equity due to the homeowner as well as the title to the home. The con artist's verbal promises go unfulfilled.

HOW THE HOMEOWNER LOSES AND THE CON ARTIST PROFITS

The Foreclosure Process

Often times, after obtaining the deed, the con artist allows the home to go through foreclosure. At the sheriff's sale*, the home often sells for more than what is owed to the mortgage company and the taxing authorities.

* A sheriff's sale is an auction of property conducted by the sheriff following a court order to seize and sell a property to pay a debt after notice to the public.

The difference between the sales price and amount owed is called **Surplus Funds**.

The deed holder is entitled to the Surplus Funds. The con artist who bought the deed, sometimes for a small amount, is entitled to apply for the Surplus Funds. The original homeowner who would have been entitled to those funds loses out on potentially tens of thousands of dollars.

HOW HOMEOWNERS CAN PROTECT THEMSELVES

When homeowners are contacted about foreclosure options by a third party, homeowners should:

- Contact their lender. They may be able to work a re-payment plan (forbearance agreement) that is within a homeowner's budget;
- Seek legal advice through a trusted attorney, not one appointed by the company or individual soliciting them;

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HOW HOMEOWNERS CAN PROTECT THEMSELVES

- Never sign away ownership of the home by a quitclaim deed or otherwise without consulting a trusted attorney;
- Be especially suspicious of offers to lease back the home, in order to buy it back over time. These offers may sound good, but often make it impossible to re-purchase the home;
- Never make mortgage payments to anyone other than the lender;
- Never listen to anyone other than the lender regarding the mortgage payments or due dates;
- Beware of any home-sale contract in which the homeowner is not formally released from liability for their mortgage;
- Not sign any document with blank lines or spaces; information could be added later without your knowledge and consent (ask for copies of any documents that are signed);
- Consider selling the home through a licensed real estate agency;
- Be wary of individuals who offer to take title to your home. You should get advice from a trusted attorney; and
- Contact the Division of Consumer Affairs if you feel you have been a victim of fraud.

Be an Informed Consumer... *We can Help!*

New Jersey Office of the Attorney General
DIVISION OF CONSUMER AFFAIRS



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