



DON'T BECOME A VICTIM OF FORECLOSURE RESCUE FRAUD

By Francesca Passeri, Esq.

You are falling behind in making your mortgage payments, paying your condominium association or homeowner's association fees, and property taxes. You know that your money and time is running out and you need someone to help you talk to your lender about a short sale or a loan modification. Despite making many calls to your lender concerning your mortgage, you are still waiting for approval of a loan modification you applied for months ago. You see the advertisements on television and hear the claims on the radio made by individuals or companies who promise that they can stop foreclosure and allow you to retain ownership of your property. Just last week you received a notice in the mail that you were pre-approved for a special government program to modify your existing mortgage.

The downturn in the economy has spurred an industry related to foreclosure prevention assistance. Some companies provide legitimate assistance and charge a reasonable fee for their services. However, fraud is also prevalent among foreclosure defense service providers. Florida Statute §501.1377 was enacted in response to the growing problem and damage caused by foreclosure rescue fraud. Foreclosure rescue efforts are legal if the service provider gives the homeowner a written itemization and detail of all services to be performed by rescuer; allows the homeowner three business days to cancel the agreement for services, and the fee for the services cannot be collected before the cancellation period expires. The law also provides safeguards for homeowners who convey title to the property with the intention of re-purchasing it at a later date.

How can you be sure that you do not become a victim of a foreclosure rescue fraud? You should not engage the services of an individual or company that requires you to pay any up-front fees for their services. A guarantee of a certain outcome is usually a sign of fraud. Some of the most common rescue scams are described as:

Phantom Help

The rescuer makes unrealistic promises to the homeowner, provides nominal assistance, and charges a fee disproportionate to the services actually provided. The rescuer fails to take timely action on the homeowner's behalf and valuable time is lost during which the homeowner may have pursued other options to prevent foreclosure.

Lease-back or Repurchase Scams

The rescuer agrees to pay the mortgage in exchange for a deed to the property, promising to allow the owner to rent with the later possibility of repurchase. The rescuer fails to make the mortgage payments or removes the owner as tenant. The owner loses all title and equity in the property and remains liable on the mortgage.

Refinance Fraud/ Bait and Switch

The rescuer pretends to be a lender. During the alleged refinance of the property, the owner is tricked into conveying title to the property by signing a deed hidden in the "loan package".

Fake “Government” Modification Programs

The rescue company will use a phone number, web address or name that is similar to a current government program. The rescue company will represent that it is working with your lender to offer a “one time only” loan modification. The rescuer is not working with your lender or for a government sponsored program.

This article is one of a series authored by members of the Collier County Foreclosure Task Force, a grass roots pro bono initiative launched in 2008 by Legal Aid Service of Collier County and the Collier County Bar Association. The Foreclosure Task Force (FTF) was formed to promote foreclosure prevention through education and intervention. The FTF has assisted local homeowners through free public workshops and legal clinics, and via a website it created - www.collierFTF.com.