



For Immediate Release
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MADIGAN: NEW LAW PROTECTS VULNERABLE HOMEOWNERS FROM MORTGAGE “RESCUE” FRAUD SCHEMES

Chicago – Attorney General Lisa Madigan today advised vulnerable homeowners of their rights under a new law designed to protect them from predatory mortgage “rescue” businesses.

Effective January 1, 2007, the Mortgage Rescue Fraud Act, P.A. 94-0822, sponsored by Sen. Jacqueline Collins and Rep. Marlow Colvin, takes aim at unscrupulous businesses that offer to save homeowners from foreclosure but often strip the equity from the homes and leave the homeowners with nothing. Under the new law, mortgage rescuers are required either to save the home as they have promised or pay the homeowner a substantial portion of the home’s value.

“A ‘rescue’ should never leave homeowners worse off than they would have been without it,” said Madigan, whose office has seen a steep rise in complaints against mortgage rescuers in the past two years. “This law is intended to make sure that homeowners receive a fair shake. If they ultimately are unable to save their home in the mortgage rescue deal, they should at least get back much of their investment in the home.”

Mortgage “rescuers” typically arrive on the scene when homeowners fall behind on mortgage payments or are on the verge of losing their homes. The rescuers usually promise to buy the house, collect rent from the homeowner and provide the homeowner with the option to buy back the house in a year or two after they have “improved” their credit and financial condition.

Mortgage rescuers, often working in concert with a group of investors, obtain title to the home by paying off the homeowners’ mortgage—a sum that is considerably less than the homeowner’s equity in the home. The rescuer then takes out a new mortgage that exceeds what the homeowners owe—often without the homeowners’ knowledge—and charges them high monthly rental payments to cover the new mortgage.

After falling prey to these schemes, financially strapped homeowners find themselves struggling to make rental payments that are equal to or higher than their original mortgage payments.

“The rescuer knows that homeowners burdened with high monthly rental payments are never going to get back on their feet financially,” said Madigan.

“These schemes fail by design.”

When the homeowners fall behind in rent, as they almost inevitably do, the rescuer initiates eviction proceedings, and the homeowners end up losing their home and all of their equity. In some cases handled by Madigan’s office, homeowners have lost as much as \$35,000 to \$70,000 of equity in their homes to these mortgage fraud schemes. In the most egregious cases, the homeowners did not even understand they had sold their home until the new owner took steps to evict them.

The Mortgage Rescue Fraud Act contains a series of safeguards to ensure that mortgage rescue agreements provide a substantial benefit to the homeowners and do not result in an unearned windfall for the rescuer. Under the Act, rescuers must provide homeowners with a written contract that lays out all of the terms of the sale and makes it clear that the home is actually being sold. The Act also provides that the homeowner must have the right to cancel the contract for five business days after it is executed by all parties.

Crucially, the new law requires rescuers to make a determination – *before* the property is sold – that the homeowner has the financial ability to make rental payments and buy the house back.

“That provision is designed to make sure that the rescuers structure agreements in ways that allow the homeowner to have a reasonable chance of succeeding,” Madigan said. “Their days of peddling false hope are over.”

Under what is perhaps the new law’s most important provision, rescuers can no longer legally enjoy unearned windfalls when the rescue fails. If the homeowners are unable to buy back the home, the rescuers must pay them at least 82 percent of the home’s fair market value.

“Buying a home for 82 percent of its value is still a good deal for the rescuer,” said Madigan. “But it also is a fair deal for the homeowner, who should receive enough money to make a fresh start.”

In addition to reining in mortgage rescuers, the Mortgage Rescue Fraud Act targets “distressed property consultants.” Through consumer complaints, Madigan’s office learned that distressed property consultants often offer phantom help to homeowners, usually promising to “buy them time” or “save the home” by negotiating with the homeowners’ creditors. Despite receiving steep upfront fees, the consultants do nothing and abandon the homeowner to a fate that might have been prevented with legitimate professional intervention.

The new law is intended to put an end to these practices by (1) requiring consultants to put in writing every service that they promise to perform, and (2) prohibiting them from collecting a fee until they have performed every service as promised.

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