



General Assembly

February Session, 2008

Substitute Bill No. 5553

* HB05553PD 031408 *

AN ACT CONCERNING FORECLOSURE RESCUE TRANSACTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in sections 2 to 5,
2 inclusive, of this act:

3 (1) "Foreclosure rescue transaction" means a transaction (A) by
4 which residential property is conveyed by a homeowner who
5 maintains a legal or equitable interest in such property, including,
6 without limitation, a lease interest, an option to acquire the property,
7 or other interest in the property conveyed, and (B) which is designed
8 or intended by the parties to avoid or delay actual or anticipated
9 foreclosure proceedings against residential property of a homeowner.

10 (2) "Foreclosure-related services" means any goods or services
11 related to, or promising assistance in connection with, (A) avoiding or
12 delaying actual or anticipated foreclosure proceedings concerning
13 residential property, or (B) curing or otherwise addressing a default or
14 failure to timely pay with respect to a residential mortgage loan
15 obligation and includes, but is not limited to, the offer, arrangement or
16 placement of a residential mortgage loan or other loan when those
17 goods or services are advertised, offered or promoted in the context of
18 foreclosure-related services.

19 (3) "Homeowner" means a person with a legal or equitable interest

20 in a building containing one to six dwelling units in which such
21 homeowner resides; and

22 (4) "Residential property" means real property containing one to six
23 dwelling units.

24 Sec. 2. (NEW) (*Effective from passage*) (a) No person shall, for
25 compensation or gain or for potential or contingent compensation or
26 gain whether at the time of the transaction or in the future, engage in,
27 arrange, offer, promote, promise, solicit participation in, or carry out a
28 foreclosure rescue transaction in this state or concerning residential
29 property in this state. The provisions of this subsection shall not be
30 construed to prohibit foreclosure rescue transactions that are not
31 carried out for compensation or gain or for potential or contingent
32 compensation or gain, including, but not limited to, transactions
33 arranged by a bona fide nonprofit organization, as defined in section
34 36a-655 of the general statutes.

35 (b) No person shall solicit, arrange or accept an advance fee in
36 connection with offering, arranging or providing foreclosure-related
37 services, provided this subsection shall not (1) prohibit an attorney
38 licensed to practice law in this state from soliciting, arranging or
39 accepting an advance fee or retainer for legal services in connection
40 with the representation of a client in a bankruptcy petition, state or
41 federal court proceedings, or negotiations in order to avoid, defend or
42 settle a foreclosure if such attorney complies with all applicable laws
43 and regulations pertaining to such fees; or (2) prohibit a mortgage
44 broker or mortgage lender, licensed under sections 36a-485 to 36a-
45 498a, inclusive, of the general statutes or the 2008 supplement to the
46 general statutes, or a financial institution from soliciting, paying or
47 accepting a loan application fee that conforms with all applicable laws
48 and regulations, including any regulations of the Department of
49 Banking, if the foreclosure-related services at issue concern the offer,
50 arrangement or placement of a residential mortgage loan. For purposes
51 of this subsection, "advance fee" means any money or consideration
52 paid in advance of actually receiving services.

53 Sec. 3. (NEW) (*Effective from passage*) (a) No person shall (1)
54 advertise, offer or promote the availability of foreclosure rescue
55 transactions prohibited under section 2 of this act or of services related
56 to such foreclosure rescue transactions; (2) advertise, offer or promote
57 foreclosure-related services if such person intends to provide
58 foreclosure-related services by offering, engaging in, arranging,
59 promoting, promising or soliciting participation in a foreclosure rescue
60 transaction prohibited under section 2 of this act; or (3) advertise, offer
61 or promote foreclosure-related services without disclosing, clearly and
62 conspicuously, (A) the precise goods and services offered and to be
63 provided by the promoter of foreclosure-related services, and (B) a
64 precise description of how the promoter will assist persons in avoiding
65 or delaying foreclosure or curing or otherwise addressing a default or
66 failure to timely pay a residential mortgage loan obligation.

67 (b) No mortgage broker or mortgage lender, licensed under sections
68 36a-485 to 36a-498a, inclusive, of the general statutes or the 2008
69 supplement to the general statutes, shall advertise, offer or promote
70 foreclosure-related services not otherwise prohibited by subsection (a)
71 of this section where the goods or services promoted concern the offer,
72 arrangement or placement of a residential mortgage loan, including,
73 but not limited to, refinancing or replacement financing, without
74 complying with all laws and regulations that apply to the marketing of
75 mortgage loans, including, without limitation, the regulations of the
76 Banking Commissioner.

77 Sec. 4. (NEW) (*Effective from passage*) The Banking Commissioner
78 may adopt regulations pursuant to chapter 54 of the general statutes to
79 implement the provisions of sections 2 and 3 of this act.

80 Sec. 5. (NEW) (*Effective from passage*) Each violation of section 2 or 3
81 of this act shall be an unfair or deceptive act or practice within the
82 meaning of chapter 735a of the general statutes.

This act shall take effect as follows and shall amend the following sections:

