



HOME EQUITY THEFT SCAMS

How they work and how to avoid them

If you have fallen behind on your mortgage payments and your home is in foreclosure or default, be aware that you and your home may become targets for a certain type of scam known as “home equity theft” or “foreclosure rescue fraud.”

The perpetrators of these scams claim they can solve your debt problems and stop your foreclosure. They then use deceptive tactics to obtain ownership of your home for a fraction of its market value, and leave you homeless.

A law known as the Home Equity Theft Prevention Act (effective February 1, 2007) may protect you and give you legal recourse. Even though some violations of this Act are considered felonies, scammers continue to attempt to perpetrate these frauds. **If you are facing foreclosure, you must arm yourself with information about your rights under the law and you should be aware of the signs that someone is attempting to swindle you.**

If you are having problems making your mortgage payments or are in default or foreclosure, contact your lender immediately. Lenders would generally prefer to work out a new payment plan than actually go through the complex process of foreclosure. You can also **call the Banking Department’s Consumer Helpline at 1-877-BANK-NYS (1-877-226-5697)** for more information on your options and resources. Also see the Department’s fact sheet on What to Do When You Can’t Afford Your Mortgage.

How do these scammers find you?

When your home enters foreclosure, your lender files a record of foreclosure—called a “lis pendens”—with the local county clerk’s office. The county clerk’s office publishes a list of all recorded foreclosures in the county, including the addresses, on a weekly basis in local newspapers. Scammers obtain these lists to find vulnerable homeowners to take advantage of.

The scammer will contact you by mail, by telephone or even by knocking on your door, and offer you some sort of financial solution to your foreclosure or default. Sometimes these scammers will target entire neighborhoods or cities by posting advertisements and fliers marketing their “services.” In their offers, they claim to be able to “stop your foreclosure”, “save your home” or get you “quick cash for your home”.

How the scammer deceives you

These predators try to convince you that they want to “rescue” you from foreclosure and offer you one of any number of fraudulent “solutions”, including:

- Buying your home so that you can pay off your mortgage and then live in the house as a renter, at a low rent, until you can afford to buy back the home;
- Paying your mortgage in exchange for temporarily holding the deed to the home, allowing you to live in the home as a renter, at a low rent, until you can afford the mortgage payments again;
- Asking you to put the deed to your house in another person’s name (who allegedly has better credit than you do) so that the scammer can find you new and more affordable financing; and
- Making a low-cost loan to you so that you can pay off some or all of your mortgage, and then pay back the scammer, who holds the deed to the house as collateral.

Once you agree to one of these “solutions”, the scammer then uses a variety of deceptions that allow them to become the owner of the house for a fraction of its legitimate price. Scammers steal your home using deceptive practices such as:

- Convincing you to sign a contract that seems to be for the legitimate sale of your home to the scammer, but actually just gives over your home’s deed to the scammer with no requirement for any payment to you;
- Convincing you to sign a contract with a buyback agreement that states you must pay an enormous fee when you buy your home from the scammer, or states you must buy back the home within an extremely short period of time, making it impossible for you to ever save enough money to do so;
- Charging you extremely high interest rates and fees on what was promised to be a “low-cost” loan with which you could pay off your mortgage, and then foreclosing on your home when you default on that loan;
- Actually buying your home from you, but then charging you huge hidden fees that suck up much or all of the proceeds of the sale;
- Charging you huge fees for “negotiating work” with the lender that is either never done, or that could have been done by yourself;
- Lying to you about the length of time you have before your house is put up for foreclosure auction, pressuring you to sign documents quickly and without reading them; and refusing to allow you to speak to your lender or to your own lawyer.

Ultimately, the scammer has either bought your home for a fraction of its legitimate price or has actually stolen your home without a cent of payment, leaving you homeless. In some cases you might retain ownership of your home, but have paid so much in fees or interest that you have been sapped of any remaining financial resources.

How to avoid being scammed

Never do business with anyone who calls you, mails you, or knocks on your door with offers to help fix your foreclosure or default, and never respond to advertisements and fliers making similar offers, without first checking with your local Better Business Bureau. Visit www.bbb.org and click on “Check It Out: Business”, or call the Banking Department’s Consumer Helpline for assistance locating your local bureau.

If you are having problems making your mortgage payments or are in default or foreclosure, contact your lender immediately. Lenders would almost always rather work out a new payment plan than actually go through the complex process of foreclosure.

If you are facing foreclosure, contact a certified housing counselor; you can find one in your area by calling the Banking Department’s Consumer Helpline, or see a list of counselors on our website: <http://www.banking.state.ny.us/legal/41ac.htm>. Housing counselors *can* help you, unlike scammers; they can give you advice on your options and resources, can help you find free legal services, and can help you negotiate better financing for your loan.

Never sign any papers or contracts and never enter into any agreement without first consulting your own lawyer—not a lawyer provided by the individual offering to “help.” If you do not have your own lawyer, call the New York State Bar Association’s Lawyer Referral Program at 1-800-342-3661 to find one.

If you do not think you can afford a lawyer, call the Banking Department’s Consumer Helpline for assistance in locating free legal services in your area, or visit Law Help’s website at www.lawhelp.org/ny/ and click on “Housing”.

If you think you’ve been scammed, call the Banking Department to learn more about your rights under New York State law or to file a complaint at 1-877-BANK-NYS (1-877-226-5697), or visit our website at www.banking.state.ny.us.