

NATIONAL
CONSUMER LAW
CENTER

A National Consumer Law Center Report

June 2005



**DREAMS
FORECLOSED:**

**The Rampant Theft of
Americans' Homes
Through Equity-Stripping
Foreclosure 'Rescue' Scams**

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of Americans' Homes
Through Equity-Stripping
Foreclosure "Rescue" Scams

A Report by
National Consumer Law Center
June 2005

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INTRODUCTION: THE BLIND SPOT 100,000 HOMES WIDE

If a tsunami were to sweep across America, selectively taking with it thousands upon thousands of people's homes, would the news media cover it?

What if many thousands of people awoke one morning to find their retirement savings suddenly missing? Would the Congress take note?

Well, something quite similar is going on. Homes are literally being stolen from their owners all over the country.

In this report you'll read about those who target many thousands of good people, people often under serious stress, and shake all or most of the value out of what's often their only major asset. The wrecked lives the predators leave behind are not their concern.

It's hard for most Americans, and even watchdogs like the news media, to grasp that a small-but-significant slice of society is composed of those who coldly prey on others. Most of us don't see this because we can't believe, as the predators do, that duping and scamming our neighbors or taking advantage of their trust is a good way to live.

But these predators aren't just "a few bad apples," as their apologists are often quick to claim. And their impact reaches far beyond their relatively-small numbers. Such predators are a big reason why we've always needed consumer protection laws in America. Now, the modern collision of a deregulated economy with the "middle-class squeeze" of stagnating wages and rising costs for many life necessities makes new and stronger laws all the more vital.

When a family's hard-earned home equity is pillaged even those who've worked very hard and played by the rules are often left just one bad break away from ruin -- with all its attendant stress, heartache and family unraveling.

Something needs to be done, and more will be said about that in this report.

But the first, tiny step is waking up and seeing the problem.



Some of the many signs currently lining the streets of Richmond, Virginia



PART 1: STEALING WHATEVER IS NAILED DOWN

A new wave of fraud and fast-dealing is ripping the homes right out from under thousands upon thousands of Americans. It's the ironic undercurrent of what for homeowners has been mostly good news: the coast-to-coast spike in real estate values.

Scam artists fish where the fish are, and one of the great mother lodes of cold, hard cash these days is literally under many Americans' mattresses – the homes they sleep in each night. As home price appreciation handily outpaces both inflation and traditional housing appreciation rates¹ many Americans, sometimes unwittingly, find themselves sitting on five- and six-figure chunks of home equity.

But the growth of this pile of wealth -- and an unprecedented variety of ways to tap it -- has coincided with tremendous financial pressures on a wide swath of American families. Rising costs for housing, health care and education, coupled with increasing job insecurity, income volatility and downward pressure on real incomes, have fueled a dramatic surge in bankruptcy filings, mortgage defaults and other financial distress.²

A very considerable role in this distress is also played by the nation's lenders, with their increasingly reckless extension of credit plus their striking array of grossly unfair and extremely high-priced credit products collectively known as "predatory lending." Assistant Minnesota Attorney General Prentiss Cox goes so far as to blame part of his state's recent outburst of foreclosure "rescue" scams on "the tail-end effects of a sub-prime lending cycle" where consumers threw in the towel trying to pay off high-priced loans.

And then there's the nature of foreclosure itself and the current system's severe shortcomings. Homeowners facing foreclosure are by definition short of money and vulnerable. Many states have non-judicial foreclosure, meaning no court is overseeing the process. And it's a process sadly lacking in transparency; a homeowner holding a notice of default often is given no clear sense of where to turn next or how much time there is to make crucial decisions.

Finally, there's the troubling lack of people who might help. Consumer law can be difficult

¹ See "U.S. Housing Boom Benefited More Markets in '04, Study Says" in the Wall Street Journal May 4, 2005. The story cites a Federal Deposit Insurance Corporation study in stating that "More U.S. housing markets were booming in 2004 than at any time in at least 30 years," with a boom defined as "a three-year, inflation-adjusted price gain of 30% or more." Also see "Home Prices: Our Towns" in the 2/11/05 Wall Street Journal for a brief overview of the breadth and depth of the price-appreciation surge.

² Among many other sources documenting what's come to be known as "The Middle-Class Squeeze" are the publications of the non-profit research and advocacy group Demos (at <http://demos-usa.org/>) and the work of Harvard Law School professor and noted bankruptcy expert Elizabeth Warren (lists of her work at <http://www.law.harvard.edu/faculty/directory/facdir.php?id=82>)

and esoteric, lawyers often cannot recover reasonable fees for taking these cases, and low-cost alternatives like legal services clinics have become an increasingly endangered species.

It's at the intersection of this new array of pressures and surging home values that foreclosure "rescue" scams find their opening.

I. What's a Foreclosure "Rescue" Scam?

These scams revolve around heavily-promoted deals supposedly designed to save the homes of people facing foreclosure, those who've fallen behind on their mortgage payments. But with frightening regularity this "help" from a "rescuer" either drains off the property's built-up equity or leaves the "rescuer" owning the house outright – and the family evicted from their home.

In many cases it's hard to escape the conclusion that that's exactly what the "rescue" is designed to do.

The predominant foreclosure "rescue" scams appear to come in three varieties. The first might be called "phantom help," where the "rescuer" charges outrageous fees either for light-duty phone calls and paperwork the homeowner could have easily performed, or on a promise of more robust representation that never materializes. In either event the homeowner is usually left without enough assistance to actually save the home but with little or no time left to prevent this grievous loss by the time s/he realizes it. The "rescuer" essentially abandons the homeowner to a fate that might well have been prevented with better intervention. Examples of this variant can be found in the California, Michigan, New York, Ohio and Oklahoma sections of this report.

A second variety of the scam is the "bailout" that never quite works. This scenario includes various schemes under which the homeowner surrenders title to the house in the belief that s/he is entering a deal where s/he'll be able to remain as a renter, and buy it back over the next few years. Homeowners are sometimes told that surrendering title is necessary so that someone with a better credit rating can secure new financing to prevent the loss of the home. But the terms of these deals are almost invariably so onerous that the buyback becomes impossible, the homeowner permanently loses possession, and the "rescuers" walk off with all or most of the home's equity. Examples of this variant can be found in the California, Colorado, District of Columbia, Illinois, Massachusetts, New York and Washington state sections of this report.

The third variety is a bait-and-switch where the homeowner ***does not realize*** s/he is surrendering ownership of the house in exchange for a "rescue." Many homeowners later insist that they believed they were only signing documents for a new loan to make the mortgage current.

Concerning income pressures and growing income inequality see BusinessWeek's May 31, 2004, cover story titled: "Working...and Poor." The subtitle says it all: "One in four workers earns \$18,800 a year or less, with few if any benefits. What can be done?" That 1-in-4 equals 28 million American workers.

Many also say they had made it quite clear they had no intention of selling or giving up their home to anyone. Further evidence that homeowners are being gulled by this variant of the scam is the many cases in which the home is transferred for a ridiculously small fraction of its actual value.

It's important to note here that a substantial number of these cases involve fraud and forgeries of deeds. Worse, in many cases the original homeowner is left holding the original mortgage on the home s/he no longer owns! Examples of this variant can be found in the Colorado, District of Columbia, Florida, Illinois, Minnesota, Nevada and Virginia sections of this report.

Based on National Consumer Law Center's numerous interviews plus a review of cases and reports from consumer attorneys, law enforcement officials and the news media in seventeen states plus the District of Columbia, here's an outline of typical tactics employed in these scams:

- The "rescuer" identifies distressed homeowners through public foreclosure notices in newspapers or at government offices. These records are more readily accessible than in the past because they're computerized and because more private firms now compile and sell the lists. The homeowner has not been foreclosed on yet, but is merely threatened with foreclosure after falling behind on mortgage payments.
- The "rescuer" then contacts the homeowner by phone, personal visit, card or flyer left at the door (see examples of these solicitations in Appendix A), or advertising. Initial contact typically revolves around a simple message such as "Stop foreclosure with just one phone call," "I'd like to \$ buy \$ your house," "You have options," or "Do you need instant debt relief and CASH?" This contact also frequently contains a "time is of the essence" theme, adding a note of urgency to what is already a stressful and possibly desperate situation.
- Initial meetings stress the promise of a "fresh start" – likely what a frightened homeowner most wants to hear – and often feature written or recorded "testimonials" from other homeowners the "rescue" scammer has supposedly saved. While it is true that these programs "work" for some, what's glossed over is that even that help often comes at a very steep price.
- Homeowners are also frequently instructed to cease all contact with lawyers or the mortgage lender and let the "rescuer" handle all negotiations.³ This doubly-devious tactic simultaneously cuts off access to possible re-financing options while running out the clock on ways to prevent the foreclosure.
- Once it's too late to save the home the property is either taken by the "rescuer" or, having been drained of substantial equity through the "rescuer's" imposition of heavy fees and other charges, simply lost to foreclosure.
- After things fall apart many homeowners suffer the added stress and indignity of being evicted by their "rescuer" from the home they once owned.
- Separately but also quite worrisome, this scam appears to have spawned a side-industry of scam artists who teach others how to drain equity from homes facing foreclosure. These scam teachers often advertise their seminars under the rubric of buying real estate with no money down, cashing in on the so-called pre-foreclosure market, helping those in distress or some such.

³ One of many examples: A document sent by a "rescue" service to a Maryland homeowner states: "We have learned that any discussion between you, the homeowner, and the mortgage company or their attorney(s) at this point, will preempt our efforts and prevent us from being successful."

II. Why Do Homeowners Fall for These Scams?

A scam by its nature disguises its intent and that's certainly the case here. The predominant theme of virtually all the come-ons for this scam is one of "rescue," when in fact it's all too often the type of "rescue" Harvard Law School bankruptcy expert Elizabeth Warren refers to as "the cement life jacket."

How do "rescue" scammers get homeowners to take the bait? A checklist of a few of the scam artist's best friends, all of which you will find in this report:

- ✓ SATURATION MARKETING of "rescue" services, with lies, exaggerations and pressure tactics common.
- ✓ TRUST: Exploiting either the homeowner's belief that someone would not lie to his or her face -- a belief reinforced by that slew of sympathetic-sounding and often face-to-face sales pitches -- or the homeowner's belief that s/he is in the process of being helped when in fact s/he's being led down the road to ruin.
- ✓ KEEPING THE HOMEOWNER IN THE DARK about the foreclosure process, its deadlines, his/her legal rights in the process, and low-cost alternatives that can save the home. This often goes hand-in-hand with another favorite scam artist's tool....
- ✓ FRAUD AND DECEPTION, including but not limited to forgeries, piles of complex documents that disguise the "rescuer's" equity-stripping intent, and documents that conveniently run out of space for signatures on pages containing text, meaning that the homeowner signs a blank page that can then be fraudulently married to an entirely different document.
- ✓ DESPERATION to save the home, obtain needed cash or get a fresh start, again in an atmosphere where the homeowner is encouraged to believe there's very little time to act.
- ✓ "AFFINITY MARKETING," where African-Americans market these scams to African-Americans, Christians to Christians, older folks to older folks, Spanish-speaking to Spanish-speaking, military to military, and so on. The idea is that people like you are on your side, and what's more they're protecting you from those who don't have your best interests at heart. This is perhaps one of the most cynical and heartless weapons in the scam artist's arsenal.
- ✓ LACK OF ECONOMIC SOPHISTICATION that causes many homeowners to fall for what amounts to extremely high-interest loans, or gigantic fees for just a few days (or hours!) of work. The homeowner simply doesn't realize how expensive the deal is, and it doesn't help that terms of these deals are quite often disguised.

CALIFORNIA SCHEMIN': TWO STORIES

A taste now, on the following two pages, of what these scams means to real people in one hard-hit region. NCLC's Steve Tripoli visited two Southern California residents after their cases were brought to our attention by local legal services attorneys and California Attorney General Bill Lockyer's office.

It's important to note that these cases, bad as they are, represent two homeowners who found their way to an attorney before their homes were irrevocably lost, though the fate of one of those homes remained in doubt as of mid-May 2005. Unfortunately even such limited victories, stressful though they might be, are far from typical. Time and again we hear from attorneys, consumer advocates and law enforcement officials that the number of victims losing their homes or big chunks of home equity to these scams far outweighs the number of clients they see. That's because most victims simply don't realize they're being scammed even when they lose their homes. They think that's just the way foreclosure works and that nothing more could have been done, a perception often happily reinforced by the people ripping them off.

"I Said, 'The House is Still in My Name!' And She Said, 'You're in Trouble'"

It's tough to fault Charleen Trana's falling for a scam that may cost her the home she's lived in for 50 years. She's 78 years old, in poor health, attached to her town, and worried about a developmentally-disabled son who has trouble making it on his own.

Her five-room ranch house in San Fernando, just outside Los Angeles, shows its age. But in Southern California's sizzling housing market it's almost certainly worth \$350,000 and maybe even \$400,000.

Trana and her late husband worked hard, logging a combined 76 years at the aviation industry's Lockheed and Bendix plants nearby. They'd paid off the mortgage years ago but then Trana's son Mike was having trouble living on his own, losing several jobs to layoffs, so she took out a \$100,000 mortgage with Ameriquest and paid Mike's rent for two years.

But Trana's own living expenses, including health problems requiring costly prescription drugs, meant she couldn't handle the mortgage payments, and Ameriquest threatened to foreclose.

Right after the foreclosure notice was published she says three "extremely nice" men came to her door, told her they knew of her troubles and offered to help. They said they'd either take care of her mortgage woes and help her move or take over the house, pay off her \$1,100-a-month Ameriquest mortgage, and let her stay in the house as a renter.

"Their offer to let me stay in the house" was the clincher, Trana says. "I've been in this town since I was nine years old and I said do or die, come hell or high water, I wanted to stay here. I was at my lowest point. I thought I was going to be sitting out on the street with my furniture in the front yard and I thought, with this deal, Mike and I could get our bills paid off."

All Charleen Trana wanted to hear was that she could die in her own place, and that's what the three men promised.

She just didn't grasp how steep the price would be.

She agreed to take \$3,000, a used Honda Accord, and the promise of \$5,000 more

for Mike when she dies. In exchange she signed away the house, was told her mortgage would be paid off, and that she could rent the house back from its new owners for \$900 a month (just \$200 less than her mortgage payment!) until she dies.

"I signed a stack of papers, my God, it was about this thick," says Trana, holding her thumb and index finger a couple of inches apart. "And when I asked for a copy I only got about half of what I signed."

Still, she says she knew she'd signed ownership of the house away and didn't think it was such a bad deal at the time. But she hadn't fully grasped the numbers. For \$3,000 plus a used car, the promise of \$5,000 more, and a payoff of the \$100,000 mortgage, she was exchanging a house that had about a quarter million dollars' worth of equity over and above what she was supposed to receive. And she was paying rent to boot!

"I wasn't thinking straight," she says now. "I was so down and out I felt like I was 100 years old."

Nevertheless, Charlene Trana's "rescuers" would have gotten away with their deed and Trana's quarter million dollars in equity had they not, inexplicably, failed to pay off Trana's Ameriquest mortgage as promised. But then again there was little pressure on them. Charleen Trana's name was still on that mortgage even though she was also faithfully paying \$900 a month to her "rescuers." And so Ameriquest quite logically was still threatening Charleen Trana with losing everything.

Trana called a girlfriend after one threat from Ameriquest, "and I said, 'The house is still in my name!' And she said, 'you're in trouble.'"

That's when some friends helped Charleen Trana find a lawyer, Debra Zimmerman of Bet Tzedek Legal Services.

As of mid-May Zimmerman says Trana's mortgage delinquency has been paid off by Trana and her "rescuers," and Zimmerman has filed suit against the "rescuers" seeking recovery of the home's title for Trana. But as of May those "rescuers" still hold the title to Charleen Trana's house, even though the mortgage remains in Trana's name.

“...and I Still Didn't Feel Like They Were Lying to Me”

Olivia and Rogelio Ortiz were finally homeowners after 15 years married, and even then it was a stretch. They dipped into retirement savings to buy the condo in Santa Ana in 1999.

Everything was fine until 2002, when both lost their jobs to layoffs. By early 2003 they were falling behind on their mortgage, and by June a notice of default and threat to foreclose was in the mail. A couple of weeks later another letter arrived.

"It looked official, and we were at our wit's end," says Olivia Ortiz. "It had all the information from the county about our mortgage, our lender, everything, and it really looked official."

The letter was from Housing Assistance Services (HAS), about which you'll be hearing more in this report.

"A debt collector had been calling my husband at work (he'd found a new job) and we just couldn't take the pressure any more. I was impressed with the professional appearance of the letter and we wanted to save our home, so I called them the same day," says Ortiz. She says she reached a man named Jeremy Buttke at HAS, and right away the hurry-up began. Buttke said he'd fax a contract and other documents, "and they said we've gotta sign them and fax them back immediately, so they could do their work. I didn't read the contract because I was desperate to get it back to them and desperate to save my house."

A close examination of the "Housing Assistance Agreement" she signed might have increased Olivia Ortiz's distress (see the document immediately after this account). The agreement essentially released Housing Assistance Services from responsibility for doing much of anything for the Ortizes, explicitly stating that "in no event shall Housing Assistance Services be responsible for the loss of client's home." There are vague promises of help, financial education materials and the like, but little more.

The Ortizes, however, had significant responsibilities under the contract. For one thing they agreed to pay a basic fee of \$1,250 plus a slew of potential smaller fees, including \$36 to run a credit report, a \$25 "DocuSave" fee, "an additional one time \$225 reinstatement processing fee," \$10 each month for a year for HAS to "monitor each client's repayment plan" and \$9 a month for 36 months' worth of financial training materials.

Grand total: \$1,980. An amount that can well be seen as an indirect drain on the home's equity as well. What's worse, contract provisions made any fees the Ortizes paid into the program largely non-refundable regardless of HAS's performance.⁴ And the Ortizes also agreed to have most payments to HAS automatically deducted from payroll or checking accounts, giving this "assistance" service a long arm to reach into the Ortizes' finances -- a long arm HAS didn't hesitate to use.

HAS representatives had one specific piece of advice for Olivia Ortiz: Don't deal with your mortgage lender. "They said if the lender called, to call them (HAS) right away."

Armed with a boatload of fees and a thimbleful of responsibilities, by all appearances HAS then proceeded to do.....next to nothing. For three months.

Postscript: Last July California Attorney General Bill Lockyer won a court order freezing HAS' assets after filing a lawsuit alleging the firm illegally and deceptively sold mortgage assistance services to numerous homeowners in foreclosure. "Con artists such as these defendants rank among the worst offenders of our consumer protection laws," said Lockyer. "They prey on highly vulnerable people, people who need to save every penny, and who can least afford to throw their money away on false promises." On May 18, just as this report was being finalized, the two sides filed with the court agreement on a permanent injunction and final judgment in favor of the state and against HAS. Deputy Attorney General Benjamin Diehl says the agreement forces HAS to fully refund fees paid by any of its victims who did not come away with new payment plans to resolve their mortgage delinquencies. HAS must also refund 10% of the fees paid by clients who did receive such a plan and pay civil penalties, and the firm is enjoined from a lengthy list of specific practices alleged in the original suit. Diehl estimates the refunds and penalties will cost HAS about half a million dollars and says he is "very satisfied" with the outcome.

Notice of a foreclosure sale of the Ortiz home scheduled for October 10th arrived in mid-September. After several attempts, Olivia Ortiz says she reached HAS by phone and was assured that something would be worked out and that she shouldn't worry. HAS representatives told her these things often go down to the very day of the foreclosure sale.

On October 7th -- three days away -- she called HAS again. "Now I'm feeling like, I'm worried. And I still didn't feel like they were lying to me but it was getting too close."

There were more reassurances from HAS representatives. They were dealing with her lender, they told Ortiz, and had asked for postponement of the foreclosure sale. But by now Ortiz had the presence of mind to insist on a letter from the lender guaranteeing that the sale was postponed. Without it, she was prepared to file for bankruptcy to save her house.

The next day, after already dunning Olivia's debit card for \$1,311 in fees, the "rescuers" at HAS dunned the card for an additional \$255. On October 9th, the Ortizes had their attorney file for bankruptcy.

But the lender hadn't cancelled the foreclosure sale. The 10th arrived and the Ortizes, both nervous wrecks, still weren't sure they'd acted in time.

"I arrived home for lunch that day at 1:45," says Olivia. "The sale was scheduled for 2, and people were on my doorstep, taking pictures through the windows, shouting bid prices into telephones. By this time I'm inside my house and I'm about to pass out."

The sale went forward, and "we spent a very long weekend in a very nervous limbo. It was horrible." Only on the next business day was she sure that her lawyer had been able to reverse the sale.

The Ortizes went into bankruptcy and are now in the second year of a five-year repayment plan. And a good thing -- the condo they'd bought for \$150,000 just six years ago is now worth close to \$400,000. They'd been flirting with the loss of a quarter-million dollars in built-up equity.

As for the "rescuers" at Housing Assistance Services, Olivia Ortiz went after them in small claims court and got a call from HAS President Marc Sheckler, "a very good talker" who convinced her to settle for reimbursement of only part of what she'd paid to HAS.


Her hard-earned lessons from all this? "Just not to trust anybody, I guess. And to talk to my own creditors and lenders."

Olivia Ortiz also learned to ignore the solicitations jamming her mail. "Even during this whole thing we would come home and our mailbox would be stuffed with things like HAS," she says. "They'd say, 'we'll save you!' Or, 'we'll negotiate with your lender!' Some of them were handwritten! There's a ton of them just saying the same thing."

⁴ The contract defined HAS's "performance" under it in this exceptionally loose way: "The actions Housing Assistance Services performs involved with packaging client's information constitute performance and no refund shall be due Client in any case."

LOOPHOLES GALORE: OLIVIA ORTIZ' CONTRACT WITH H.A.S

When a Housing Assistance Services representative told Olivia Ortiz (story, previous page) to fax this contract back to him, signed, very shortly after she received it, Ortiz said "I didn't read the contract because I was desperate to get it back to them and desperate to save my house." She should have taken the hurry-up as a red flag: The agreement essentially released HAS from responsibility for doing much of anything for the Ortizes, who nearly lost their home waiting for HAS to act. It explicitly states that "in no event shall Housing Assistance Services be responsible for the loss of Client's home," and lays out a long list of fees and other charges while further shielding HAS from responsibility.

(Housing Assistance Services)		To: Olivia Ortiz		7/16/2008 02:55:35PM page 8 of	
Homeownership Counseling Acknowledgement Housing Assistance Agreement			Housing Assistance Services Counseling Services 12534 Valley View St #164 Garden Grove, CA 92845		
Housing Assistance Services, Inc. provides homeownership counseling regarding options and alternatives that may be available to help you avoid foreclosure. The intent of the Pre-foreclosure Workout Program (PFWP) is to assist you to decide on a particular objective in dealing with the mortgage default from among the available courses of action. Furthermore, assistance will be provided in exercising the appropriate action(s) and strategy(ies) for the purpose of avoiding foreclosure.					
<p>Please read and sign below.</p> Every participant in the Housing Assistance Services Pre-foreclosure Workout Program (PFWP) agrees to receive financial counseling via enrolling the Effective Financial Training (E.F.T.) Program. This Program lasts for 9 quarters and once per quarter; the client will receive financial education materials covering such topics as budgeting, emergency fund savings, and credit management. Client acknowledges and agrees to have his/her credit card or checking account debited \$9 per month to cover enrollment in the E.F.T. Program, created by the Homeowners Education Association.					
The undersigned Client employs HAS to assist Client with analyzing and strategizing a solution to Client's mortgage delinquency and foreclosure. Client shall pay \$1250 for services performed by HAS. Once a credit report is run, \$36 will be billed to Client or debited from Client's checking account or credit card. A DocuSave® fee of \$25 will be billed to Client or debited from Client's checking account or credit card to maintain the record of the PFWP in electronic and hardcopy form. Upon completion of HAS's services, Client shall pay an additional one time \$225 reinstatement processing fee, which will be billed to Client or debited from Client's checking account or credit card. HAS will monitor each client's repayment plan for the 12 months immediately following the issuance of their repayment plan, for which client's checking account or credit card will be debited a monitoring fee of \$10 per month for the 12 months (or less, based on the term of the repayment agreement). Client can cancel future E.F.T. and/or monitoring service by sending written notice via certified mail to 12534 Valley View St. #164, Garden Grove, CA 92845. Cancellation will be effective 30 days after receipt of written notice. For help or questions call HAS at 1-800-395-6078. Immediately following the date HAS obtains a repayment plan for the Client, Client understands that these monies are not being applied to back mortgage payments that the Client owes to their lender. HAS will package and arrange this information and communicate with Client's lender or lender's representative. All work done on behalf of the Client shall be done out of HAS's office in California. In the event that HAS is coordinating the creation of a payment program for Client, Housing Assistance Services is not responsible for Client's inability to raise the initial monies to enter the program or Client's ability to financially qualify for the lenders requirements for participation in the program. It is the sole responsibility of Client to provide complete and accurate information.					
In no event shall Housing Assistance Services be responsible for the loss of Client's home. The maximum liability for HAS is limited to the total amount of fees paid by Client. The actions Housing Assistance Services performs involved with packaging Client's information constitute performance and no refund shall be due Client in any case. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. This agreement shall be governed by and interpreted in accordance with the laws of the State of California. The parties acknowledge that this agreement evidences a transaction involving interstate commerce. The United States Arbitration Act shall govern the interpretation, enforcement, and proceedings pursuant to the arbitration clause in this agreement.					
In the event that Housing Assistance Services cannot reach an agreement with Client's lender for a forbearance or loan modification, HAS may refer the Client to an attorney who handles Bankruptcy. In addition, in the event that an agreement is reached with the Lender, but the Client cannot raise the initial payment to enter the program or believes the monthly payments unaffordable, HAS may refer the Client to an attorney who handles Bankruptcy. In either of these two events, the Client will not be given any refund. Client agrees to handle all responsibilities required of them by the Bankruptcy attorney. Client has the right to use an attorney of his or her own choosing instead of accepting the attorney referred. By signing below Client agrees that HAS may release information provided to us to the bankruptcy attorney. Our forwarding of this information to said attorney does not constitute any warranty or accuracy of the information - Client is solely responsible for the accuracy of the information provided to us and through us to others as authorized by Client					
Borrower's Homeownership Counseling Acknowledgement					
This will certify that the undersigned homeowner(s) agree to enter into homeownership counseling program wherein each available option is explored and considered so that an appropriate course of action can be determined in respect to the present foreclosure situation. It is agreed that all requested information and documentation will be promptly provided to Housing Assistance Services and any other affiliated agencies or organizations.					
Print Name Borrower			Print Name Co-Borrower		
Homeowner's (Borrower) Signature & Date			Homeowner's (Co-Borrower) Signature & Date		
X  7/16/08			X		

PART 2: THE HIDING-IN-PLAIN-SIGHT PANDEMIC

This report goes into some detail in this section, including stories of similar scams from several states, for three reasons:

-- We want to definitively prove that a common rebuttal to news of consumer scams, that "it's just a few bad apples doing it," is categorically beyond rational claim when it comes to foreclosure "rescue" scams.

-- We want the public and the news media to be aware of the many different tactics these scammers employ to cash in other people's home equity.

-- We also want to show, through others' experience, the difficulties of fighting these scams at present, in order to bolster the case for reform that we'll make later in this report.

In December 2004, after hearing many reports of a new spike in foreclosure "rescue" scams, National Consumer Law Center advocates asked members of the consumer law and consumer advocacy communities if they'd been seeing the problem. Within two business days of our initial inquiry, often-detailed responses from fifteen states and the District of Columbia poured in. A few others came later.

What follows is a state-by-state rundown of what NCLC's investigators heard as a result of this single round of inquiries. We undoubtedly could have uncovered many more problems in many more states with further probing. Widespread consumer abuse like this scam often hides in plain sight because consumers don't report it and because the relatively few counselors, attorneys and law enforcement officials who tackle these problems mostly do so case-by-case, with limited communication between them. So no one's connecting the dots.

Please note that many of these stories represent fluid situations, and though we tried to give the latest information a few have likely been evolving since these words were written in Spring 2005.



I. CALIFORNIA: *"An explosion...like I've never seen before"*

"2945. (a) The Legislature finds and declares that homeowners whose residences are in foreclosure are subject to fraud, deception, harassment, and unfair dealing by foreclosure consultants..... (who) represent that they can assist homeowners who have defaulted on obligations secured by their residences. These foreclosure consultants, however, often charge high fees, the payment of which is often secured by a deed of trust on the residence to be saved, and perform no service or essentially a worthless service. Homeowners, relying on the foreclosure consultants' promises of help, take no other action, are diverted from lawful businesses which could render beneficial services, and often lose their homes, sometimes to the foreclosure consultants who purchase homes at a fraction of their value before the sale. Vulnerable homeowners are increasingly

relying on the services of foreclosure consultants who advise the homeowner that the foreclosure consultant can obtain the remaining funds from the foreclosure sale if the homeowner executes an assignment of the surplus, a deed, or a power of attorney in favor of the foreclosure consultant. This results in the homeowner paying an exorbitant fee for a service when the homeowner could have obtained the remaining funds from the trustee's sale from the trustee directly for minimal cost if the homeowner had consulted legal counsel or had sufficient time to receive notices from the trustee....

"(b) The Legislature further finds and declares that foreclosure consultants have a significant impact on the economy of this state and on the welfare of its citizens."

-- from California Civil Code, Sections 2945 (a) and (b)

As already cited in the case of Olivia and Rogelio Ortiz, **California Attorney General Bill Lockyer** recently won a judgment from Garden Grove-based Housing Assistance Services, Inc. (HAS) after freezing HAS' assets and filing suit against the firm.

Deputy Attorney General Benjamin Diehl says HAS alone has some 1,800 California clients and operates in several other states as well. But Diehl says HAS is far from the only player on California's foreclosure "rescue" scene.

"I have really seen an explosion over the past 1-1/2 years like I've never seen before," he says, adding that his office is investigating other cases and expects to bring more actions.

"Los Angeles and now Northern California see a lot of these scams, and we see them every week" says **attorney Debra Zimmerman at Bet Tzedek Legal Services** in Los Angeles. "The reason we're seeing these cases again is the increase in equity."

Zimmerman says agencies ranging from the Better Business Bureau to the Los Angeles Department of Consumer Affairs, along with private lawyers, are handling "a lot of cases" in Southern California's red-hot real estate market.

Zimmerman says she's personally handling three more cases. Her colleague **Derek Li**, who works at another Bet Tzedek office, recently settled a case in which the company "misled my client into paying them around \$27,000, or 1/3 of the excess proceeds from the foreclosure, for legal services to recover her home that the defendants had no intention of providing." The settlement recovered some of the money, and Li says the firm claims to have moved out of this business.

"What you see in the victims," says Li, "are people who want more than anything to save their house, because once you're out of the real estate market in Southern California you can't get back in (due to rapidly escalating prices).

"But there's a widespread lack of financial sophistication," he says. "People just aren't taught about handling money, or even mortgages, before they run into these scam artists. So, unsophisticated homeowners become easy victims of scam artists who appear to be trustworthy. And many homeowners are also desperate and poorly-educated as well."

When NCLC's investigator visited **Los Angeles lawyer Manuel Duran** he gave us copies of seven foreclosure "rescue" lawsuits he'd filed, two of which he'd been able to settle on terms favorable to the homeowners.

"My last three, the homeowners had equity losses of \$128,000, \$50,000 and \$30,000," he says. "The scammers are making more doing this than they were doing mortgage re-fi's (refinancing)."

Duran says promises to refinance past-due mortgages are often part of the "rescue" scam.

"They promise to save you. They say, 'I can get you a re-fi.' In California you get 90 days to cure the default, and 21 days to stop the (foreclosure) sale. The scammers let that time slip away and then say 'you don't qualify for a re-fi, but I have a solution for you,' and the solution is to sign the house over."

Duran's partner **William Flanagan** says many of the firm's clients "are highly susceptible to being manipulated. They have no clue about how they can tap into the equity from their houses themselves, or even the value of what they're sitting in. And they don't want to hear 'you've gotta sell the house' when they're in trouble. So right at that moment, in walks someone who says they're not going to have to sell."

Flanagan's developed a hardened view of the foreclosure scammers.

"They're sociopaths," he says. Then he points to his wallet on a nearby desk for emphasis, saying: "If I leave my wallet on that table most people won't take it. But a sociopath will say: 'If you're stupid enough to leave it there you deserve to lose it.'"



II. COLORADO: ***"We're struggling to get our arms around it"***

Foreclosure scams are "an absolutely epidemic problem here," says **Deputy Colorado Attorney General Garth Lucero**.⁵ "We're struggling to get our arms around it. They use amazingly confusing paperwork intentionally, to make it hard for us to litigate."

Lucero says scammers his office has encountered include a group that took dozens of its victims' homes and another targeting the Spanish-speaking community. "It's really picked up in the last 4 to 5 years," he says, "and it's tied to the massive creativity in mortgage lending and all this pushing of re-financing."

⁵ Lucero left the attorney general's office for private practice after we spoke with him in January.

The spike in problems has fed an interest in stronger state legislation to curb abuses, says Lucero, but right now Colorado has no regulation of mortgage lenders and brokers. "You can be an ex-felon, released on Friday, and on Monday you're a mortgage broker," he says.⁶

The attorney general's office under former Attorney General and now **U.S. Senator Ken Salazar** brought one foreclosure "rescue" specialist to justice in a high-profile 2003 case, but even that case shows the difficulty of permanently holding these scams down.

State regulators revoked the real estate license of broker **Ryan Searle** and secured a \$1.1 million court-ordered judgment for people Searle and his family businesses allegedly duped into giving up their homes. The Attorney General's complaint alleged that Searle and his family-owned corporations engaged in deceptive business practices with their foreclosure assistance "Cure Program," and that Searle and eleven other defendants acquired title to over 100 Greater Denver homes with a combined value of more than \$15 million.

"Searle seemed to prey on very vulnerable victims, those on the edge," says **Assistant Attorney General Claire Largesse**. "Some had suffered severe medical catastrophes, some could not read or speak English and others were elderly with limited understanding of these complicated transactions."

Many of these cases involved the victim signing away ownership of the home and then leasing it back from the "rescuers" as part of a plan where they supposedly would buy the home back over time. But the contract provisions were usually so onerous that re-purchasing the home proved all but impossible.

Largesse says that Searle left for Texas shortly after the settlement put him out of business in Colorado, and her office received a phone call from a Texas television news reporter several months later inquiring about Searle. For more on Searle's Texas activities -- a cautionary tale about the difficulty of keeping even those with disturbing track records out of this business -- please see the Texas section of this report.

In Denver meanwhile the District Attorney's **Director of Consumer Services Lisa Curtis** reports that her office has begun to see cases involving multiple victims of the same scam operators. Senior citizens and non-English-speaking communities have been among the targets, she says.

Curtis' office has taken some aggressive steps to combat these scams, which are outlined in Part 4 of this report.

⁶ It turns out that no new legislation passed this year, Deputy Colorado Attorney General Claire Largesse told NCLC in late April, despite the fact that "problems continue throughout Colorado with these 'rescue scams.' "



III. DISTRICT OF COLUMBIA: Renting your own house back

Among many other cases here, lawyers from the Washington office of **AARP Foundation Litigation, Legal Counsel for the Elderly** and the private firm **Hogan & Hartson** filed suit last September on behalf of 77-year-old D.C. homeowner Idriis Bilaal and five other older homeowners, alleging that five D.C. and Maryland residents deceived homeowners into signing away their homes for a fraction of their value. Two of the defendants have criminal records for mortgage fraud.

AARP's Jean Constantine-Davis describes scam-artist techniques she's encountered as follows:

"The Bilaal scenario is one of two types of scams we've heard about. The non-Bilaal type involves people who call the distressed homeowner and promise they can help if the homeowner pays them e.g., \$500. I have no direct experience with those.

"In the Bilaal case, the 'rescuers' approach (come to the homes of) the homeowners who are hours to weeks before a foreclosure sale. They tell them that they can make the homeowner a loan to save their home from foreclosure. It's variously been characterized as a wraparound mortgage, second mortgage, etc. Homeowner thinks s/he is borrowing money, may believe s/he is refinancing the original mortgage. In fact, the documents signed are an agreement to sell the property, a deed, and a lease. A few other forms may also be signed.....The lease and agreement set out a monthly rent and state that the homeowners have one year to repurchase the property for an astronomical amount of money.

"The kicker is that the existing mortgage on which the homeowner is being foreclosed is not paid off. The 'rent' paid by the victims goes to service their own mortgages for properties that are now in the name of the 'rescuer.' The new owner then writes to the mortgage co. and has the address for billing changed to its address and also goes online, where possible, and signs up for a password to the mortgage account with, e.g. Select Portfolio Servicing or GMAC. Thus, the homeowner has no way of knowing if the mortgage is being kept current and often has reason to doubt that it is.

"The new owner makes repurchase nearly impossible, even if the victims have the wherewithal to scrape some financing together. If they fail to make 'rent' payments, they are sued in L&T (landlord and tenant) court and evicted.

"The up-front, bird dog who made the initial contact with the homeowner gets paid about \$5,000 per transaction. The purchaser gets homes worth \$100,000-\$500,000 for the foreclosure bailout amount -- in our case anywhere from \$10,000-\$50,000. Virtually all of the homeowners are victims of a string of predatory mortgage loans... (and) who knows what kinds of fees have been added on."

Bilal, for his part, told the Washington Post he had no idea what he was getting into but that "I would never have considered selling my house." A veteran of three wars, he was born in the house and wanted to leave it to his children.

In another D.C. case, the Washington Post reports that **Superior Court Judge Joan Zeldon** recently awarded the estate of Hattie Mae Smith \$415,000 in damages stemming from Smith's dealings with businessman Rodney Byrd and his Creative Investment Co.

Judge Zeldon found that Byrd "had no intention of helping Smith save her home" and that his actions violated D.C. consumer protection laws. Within months of approaching Smith with an offer of help one of Byrd's partnerships wound up owning her home, re-selling it for a profit and threatening Smith with eviction, conduct Judge Zeldon called "outrageous" while noting that Smith was not the first victim of Byrd's business dealings.

The Post reports that a flyer circulated by Byrd's company says the company offers "a number of creative programs that will allow you to keep your home" and adds: "You must act now, before someone else owns your home. Rest assured, The Creative Investment Company is here to help you."⁷

The entire D.C. region is rife with these scams, as the Maryland and Virginia sections of this report will show.



IV. FLORIDA: "More prevalent than even high-risk....loans"

Things have slowed some since early this year, **Jeff Hearne of Legal Services of Greater Miami** told NCLC in March, but through the end of 2004 "it seemed like (foreclosure scams) were all that was walking through the door for a while."

Hearne's office recently settled a case where the defendants agreed to return a home to its original owners, after Hearne's office alleged that the defendants' offer to help keep the

⁷ "Judge Rules Against Foreclosure Rescuer" by Sandra Fleishman, Washington Post, July 7, 2004.

homeowners out of foreclosure was actually a conspiracy to defraud them of their home and \$70,000 in equity.

Hearne is also litigating another case, investigating a "rescue" firm that had multiple victims and working on several cases involving individual "rescuers" and victims.

In Dade County's low-income, predominantly African-American Liberty City, **Assistant State's Attorney Chadd Lackey** says his office has brought criminal complaints in three cases and has several others awaiting attention.

Lackey says he believes foreclosure "rescue" scams are "much more prevalent than even high-risk predatory loans." He says that these scams in Liberty City, where he runs **State Attorney Katherine Fernandez Rundle's** satellite office, are "most prevalent with older black professionals, people who've owned their property for many years and have lots of equity but are running into financial problems as they age."

From the northern tip of the state **Lynn Drysdale of Jacksonville Legal Aid** sent NCLC two complaints she's filed against William Duquette, who according to one of the complaints "advertised various services, via various media including television, the Internet and yellow page advertisements... (which) targeted persons in financial distress or difficulty and stated, among other things, 'Bill Buys Houses,' 'Sell your House Today' and 'We Charge You No Fees!'"

The complaints allege some combination of fraud, deceptive practices, breach of contract and other wrongdoing by Duquette, and that these practices placed ownership of both clients' homes in jeopardy even as Duquette sucked fees, rental income and other money out of the properties.

Duquette has a website at www.billbuyshouses.com on which he touts his ability to teach his skills to willing customers. As of May 2005 one could go to that website, click on "Be a Millionaire," and see Duquette's pitch for his \$695 home-study course "Profits in Pretty Houses Made Easy," where he writes: "My name is Bill Duquette and I have trained thousands of people in the art of Buying and Selling Real Estate using little or no money or credit to realize tens of thousands of dollars on a single house deal!"

In addition to the Duquette cases, Jacksonville Legal Aid's Drysdale reports:

"I have seen a lot of different kinds of mortgage foreclosure scams and have some folks (clients) who are probably ready to give you an earful or two. These are folks who answer letters offering to save them from foreclosures or who answer ads like 'Bill Buys Houses.'

"I'm also working with some pro bono attorneys on another complaint, and monitoring another case for a client while the Florida Department of Financial Services investigates the

'perp' (perpetrator). I was able to defend her so far in an eviction but she ultimately lost her home because the scammer failed to pay the new mortgage he took out on the home."

Drysdale also forwarded descriptions of several other cases where her clients lost their homes to various foreclosure scams.

The **Florida Attorney General's** office has begun taking note. **Assistant AG Gladys Perez** says her office is investigating reports of foreclosure scams in several Florida counties and that reports of wrongdoing appear credible. "It's reminiscent of a lot of predatory lending," she says. "We're seeing home solicitation, predominantly minority neighborhoods (targeted) and misleading representations as to the nature of the transactions."

The Florida Legislature's two branches considered identical bills to curb foreclosure "rescue" scams this year but they failed to move in either house.⁸ Supporters promise to bring them back next year.

In a separate case, the **Florida Supreme Court** in January approved the emergency suspension from legal practice of Miami real estate attorney Terry Rosenberg, pending investigation of charges that he was a key player along with partners Manuel Rosado Sr. and Manuel Rosado Jr. in a major foreclosure scam. Though the alleged scam isn't of the "rescue" variety, it points to how the foreclosure process can cloak a diversion of equity from the original homeowner.

The alleged scam involves surplus funds -- home equity -- left over after creditors were satisfied in foreclosure sales. Homeowners often aren't aware these funds are available and the money often isn't returned to them.

The **Miami Daily Business Review** reports that the alleged scam may have involved as many as 300 properties. **Reporter Julie Kay** describes the allegations this way:

"Under the alleged scheme, Rosenberg and his associates identified foreclosure cases where there were surplus funds, collected them supposedly on behalf of the former homeowners but without their knowledge and took up to 40 percent of the surplus funds as payment.

"The Bar contends that Rosado Jr., acting with bank employees, cashed checks made out to the ex-owners without the ex-owners' endorsements. In total, the Bar said, Rosenberg 'illegally collected \$151,634 from 18 victims and none of the victims received any funds.' Its petition seeking Rosenberg's emergency suspension said, however, that the Bar is investigating dozens of other victims of 'the respondent's machinations.' "

⁸ The House bill was HB 1311, and the Senate bill SB 2428.

Rosenberg is fighting the suspension, which was requested by the Florida Bar after an eight-month investigation, and claims he did no wrong. If he loses he could be disbarred.



V. GEORGIA:
"The guy who lies the most gets the most deals"

"We see this stuff day in and day out -- cases are just rolling in," says **Bill Brennan of the Atlanta Legal Aid Society**. Brennan says signs for foreclosure "assistance" programs, many of them scams, plaster utility poles all over Atlanta.

Homeowners are flooded with letters from foreclosure scammers once their default notice goes public, says Brennan, adding: "Clients will walk in (to the legal aid office) with literally a grocery bag full of these letters."

When we spoke in March, Brennan was helping a private lawyer prepare a case involving a disabled homeowner who responded to a utility-pole ad offering mortgage re-financing. Brennan says the "assistance" firm told his client to stop making mortgage payments but never re-financed the mortgage. When it went into default, Brennan says the "rescue" firm had a ready buyer for the house all lined up.

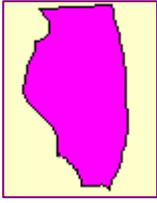
"People are doing this for a living," says Brennan, "and they have good lawyers working for them."

Atlanta attorney Michael Froman says he's handling about two- to three-dozen foreclosure "rescue" cases now and has filed dozens of lawsuits fighting this scam in recent years. Froman attributes a recent rise in these scams to the big run-up in central Atlanta home values over the past decade.

"Without that run-up there's not a whole lot of foreclosure assistance fraud," he says. "These claims of 'saving' the house are usually just fraud combined with duress, and it follows kind of a Gresham's Law here – the guy who lies the most (about what he's able to do for homeowners) gets the most deals."

Froman says he has eight or nine clients involved with a single supposed "rescuer." He says scammers get a useful form of one-stop shopping for targets by subscribing to a local business publication called "The Atlanta Foreclosure Report,"⁹ which consolidates foreclosure notices from 14 metropolitan counties (headline in March on the publication's Internet website: "FORECLOSURES REACH RECORD HIGH IN GREATER ATLANTA! 3,788 PROPERTIES THIS MONTH!")

⁹ See this publication at: http://www.equissystems.com/page_2.htm



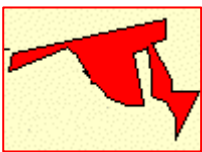
VI. ILLINOIS: "We're seeing outright forgeries"

"We're seeing outright forgeries (of home deeds, followed by sale of the home to third parties), and also cases where the homeowner is duped," says **Jim Brady at the Legal Assistance Foundation of Metropolitan Chicago**. "In most (cases) the homeowner thinks they are just going to have to pay the rescuer the amount needed to reinstate the loan that is in foreclosure, but in reality they have deeded the house over to someone else."

Brady is personally litigating about half a dozen such cases right now; he says another attorney in his office has at least three cases, and that "at least a few new ones a month" come into his office alone.

"It's on the rise within the last year," says Brady. "We're seeing more people calling us, and that's always a sign that it's out there because most people don't call."

Legal Assistance Foundation lawyer **Daniel Lindsey** is investigating a case involving another firm that does significant advertising in Greater Chicago. "Given the ad," he says, "I assume they do a lot of the kinds of deals done with our (potential) clients, i.e., they advertise that they'll save the home then engage in high-pressure tactics to consummate a 'sale-leaseback' with (unrealistic) option to repurchase. If this couple can't repurchase at the end of 24 months (coming up) they will lose the house and a whole lot of equity--the typical 'rescue fraud' scenario."



VII. MARYLAND: "There are clearly violations out there"

Reports detailing foreclosure "rescue" activity flooded in from across Maryland after NCLC began its investigation. The level of activity plus complaints from consumer advocates and others have led to a legislative remedy that appears to be near final approval. (LATE BULLETIN: Maryland's governor signed the measure into law on May 26th, as this report went to press.) The remedy itself will be discussed in Part 4 of this report and also Appendix B.

"There are probably hundreds of people doing this in Maryland," **Doyle Niemann, the assistant state's attorney for Prince George's County and also a state legislator**, told NCLC. Niemann co-authored the new legislation, modeled in part on a Minnesota law that tightens control on foreclosure "rescues." The bill overwhelmingly passed both houses of the legislature and was awaiting the governor's signature as of mid-May, but Niemann says it was

facing late opposition in the form of a "push by 'investors' who claim we are undermining the American way of life."

Niemann says ads for foreclosure "assistance" festoon utility poles and street corners all over Prince George's, a D.C. suburb with a large population of African-American professionals, adding that the legislation is needed because without it "the most sophisticated (scammers) can do this legally."

Niemann also told the Washington Post that these scams are increasing on Maryland's rural Eastern Shore, where there are many poorer residents whose property taxes are going up as the value of their homes rise.¹⁰



Spanish-speaking communities are also targeted by fast-turnover home buyers, like this one advertising in Maryland. NCLC received reports of similar targeting from six states.

"I could take on a new case every day" says **Calvin Wink, an investigator with the Maryland Division of Financial Regulation**. "And from what I see I can tell you there are clearly violations out there."

Wink is convinced he's dealing with only the tip of an iceberg. "My office is complaint-driven and many people don't complain, or they're just duped and over-wrought," he says. Equity-stripping scams are not new, but what is new this time is that "unscrupulous folks are increasingly teaching others how to do this," Wink says.

Scott Borison, an attorney in rural Frederick, Maryland, told NCLC: "I have had two cases from Frederick County, four from Anne Arundel County and there may be one or two others that I cannot think of at the moment. I currently also have three cases going in Prince George's County Circuit Court and one in federal court.

"This scam arises from a number of factors lining up," Borison says, including:

-- "(Maryland's) non-judicial foreclosure process, where the homeowner is given a short period to come up with arrearages. In Maryland the homeowner can be sent notice of sale

¹⁰ "Bill Would Curb Foreclosure Sharks" by Krissah Williams, Washington Post 2/24/05.

10 days before a sale. The law has been interpreted that they do not have to actually get the notice but only that it is sent.

-- "Allowing creditors to add on attorney's fees and costs in addition to missed payments as a condition for reinstatement.....there is another \$2,500 of costs that the homeowner must come up with.

-- "A summary landlord-tenant procedure. In Maryland, the court that hears landlord-tenant disputes may not adjudicate title issues. Therefore the former homeowner, now tenants (after they transfer deed to a "rescuer"), can be thrown out in a few weeks."

In Baltimore, **Diane Cipollone of the Community Law Center** reports: "The Baltimore region has been inundated with illegally posted signs offering help to those facing foreclosure. I have collected various notices and mailings from outfits that I suspect are involved in these schemes." She turns that information and the cases of individual consumers who come to her office over to investigators and private attorneys, as the center does not represent individuals.

Annapolis attorney Denis Murphy sent a complaint he filed plus this description of the case:

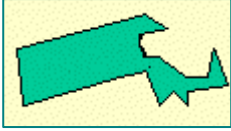
"An unlicensed mortgage broker told the Plaintiff she could save her home, which was in foreclosure, by selling the home to (the broker's) compatriot, who would sell it back to her at a better mortgage rate and clean up her credit.¹¹ In fact, the Plaintiff was fraudulently induced to sign a 'land installment contract' which contained more onerous monthly payments than her previous mortgage, and which required a massive balloon payment after twelve months. This is an extremely predatory practice and evidently a popular scam in the Washington/Baltimore area."

Murphy's co-counsel in this case, **attorney Peter A. Holland**, adds: "The scam artist was not even a licensed broker, although she had a business card indicating that she was. The state of Maryland told me that if a scammer does only ONE incident, they can't do anything about it. The state of Maryland investigator also told my office that there can be no fraud if there is a signed deed."

Stephen Hannan of the Howard County Office of Consumer Affairs in Columbia reports a case he's now investigating where an Ellicott City homeowner "was in a real bind with her house payments and was referred by a work associate to this guy who said he had a whole big plan for her. They were going to re-fi the house using someone else's money and somebody

¹¹ A number of foreclosure scammers also use the promise of fixing the homeowner's credit problems or credit rating as an inducement to enter into the scam.

in California was supposed to be paying her money, but that never shows up." As of late April this woman had sought legal advice and filed a complaint with the state attorney general's office.



VIII. MASSACHUSETTS: "They're getting...more entrepreneurial"

Attorneys at **Harvard Law School's Predatory Lending/Foreclosure Prevention Clinic in Boston** have tracked one foreclosure "rescue" firm's activities through five Massachusetts counties plus California and New Hampshire. The clinic found at least 40 Massachusetts transactions involving the firm, called "BeForeclosures," and it has filed suit in two of those cases.

"There are multiple business entities involved" in BeForeclosure's complex dealings, says clinic attorney **Kim Breger**. She says many of the deals involve 2-3 year "buyback" programs after the homeowner transfers ownership to a BeForeclosures partner.

One lawsuit the center filed alleges that the homeowner was "baited" by BeForeclosure's claims of assistance when in fact "this entire scheme and plan was actually a sophisticated fraud intended to conceal the usurious terms under which Defendants loaned monies."

The 33-page complaint is filled with alleged violations and deceptions by BeForeclosures and its partners. Among the suit's claims: that BeForeclosures and its partners charged the plaintiff at least \$64,144.30 for an advance of \$14,400 to bring the plaintiff's mortgage current, that BeForeclosures never disclosed to the homeowner that its deal involved transferring actual ownership of the home to a "trustee," who had been instructed in advance that one of its main duties was to evict the homeowner from her home, and that the deal directly violated at least six Massachusetts laws and real estate regulations.

In another BeForeclosures case, **Boston attorney John Roddy** filed suit and describes these rather eye-opening circumstances:

The family of four whose home is in jeopardy has three disabled members and only one person working and providing support. In exchange for turning ownership of their home over to a "trust," says Roddy, the family received about \$22,500 in "real" money to bring their mortgages current. The trust then requires them to pay back approximately \$52,000 at the end of two years, plus five percent of any increased equity in the property, in order to recover ownership.

The documents in the case reflect a cash advance to the family of about \$35,000, however. "It turns out the balance of this money is primarily comprised of questionable fees the trust imposed on the family in connection with the transaction," says Roddy – another way of sucking equity out of the home. Among these are:

1. Documentation fee (\$2,500)
2. Facilitation fee (\$2,500)
3. Investor transaction fee (\$750)
4. Trust set up (\$250)
5. Credit counseling (\$250)
6. Contingency Fund (\$6,917)

Roddy calculates that if this deal were measured as a credit transaction the effective annual interest rate on the "real" money advanced would be about 50%. "This deal is made all the more egregious by the family's circumstances," he says, "three disabled family members and an income which clearly cannot support the contemplated method of winding up the trust."

In other words, the deal virtually assures that the family will lose its home and much of their built-up equity.

Elsewhere in Greater Boston "they're getting to be more and more entrepreneurial in this (foreclosure scam) business, and they're getting more skillful," says housing counselor **Norma Moseley of ESAC**, the Ecumenical Social Action Committee.

In the largely minority neighborhoods where most of her clients live, Moseley says she's seen increasing involvement in these scams by local clergy (something NCLC investigators heard from several other states as well), and also a bankruptcy attorney who does the "favor" of putting the homeowner in touch with the equity-stripper. Moseley also says she's seen many forged documents in these cases.

Moseley's ESAC colleague **Virginia Pratt** says she's handled cases where homes are deeded to scammers as part of a deal where home repairs will supposedly be performed, and she's also seen a case where equity-stripping "rescue" scammers set up a sale of the home that entangles both the original homeowner and the new buyer while the scammer walks off with a big payday.



IX. MICHIGAN:
"This is not just a bunch of small fish"

The **Michigan Poverty Law Program** and Michigan's **Center for Civil Justice (CCJ)** have asked **Attorney General Mike Cox** to look into the activities of a "rescue" business called **Advanced Mediation Services**. **CCJ attorney Terri Winegarden** says the business is a reincarnation of a differently-named "rescue" operation, **J.D. Klein and Associates**, that CCJ put out of business two years ago after filing a lawsuit alleging violations of state law.

Winegarden's letter to the Attorney General's Consumer Protection Division describes the operation this way:

"Discussions with several of his clients show that Mr. Klein charges people an exorbitant amount of money for a couple of futile phone calls to their mortgage company or referral to a bankruptcy attorney -- all phone calls the clients could have made themselves. Once he feels his job is done, he refuses to have any more contact with his clients. If he refers his clients to a third party, he often fails to explain to whom he is referring these clients and what this person/business's function is in relation to the pending foreclosure (bankruptcy attorney, lender, loan officer, etc...).

"As part of our previous litigation, a Circuit Court informed Mr. Klein that by taking money in advance of completing all of his services he is in violation of the Michigan Credit Services Protection Act. Yet he continues to do it. He knows that no one would pay him the amount of money he asks for little to no services. Our office has interviewed many of Mr. Klein's former clients. The most common complaint we heard was how they were convinced to pay a large sum of money for 'nothing.' "

The letter then cites the cases of four Klein clients in some detail. Two clients lost their homes and the equity in them.

Michigan Poverty Law Program **attorney Lorry Brown** says she's handling four other foreclosure "rescue" cases and that at least two of her clients are anxious to speak publicly about their experiences.

In Grand Rapids, **attorney Mike Nelson** has discerned some patterns in these cases.

"I've seen the same players, and also a lot of the same techniques, which makes me think this is not just a bunch of small fish," Nelson says. "I think these schemes are being marketed.

“One thing that would be helpful on a national level,” he adds, “is to compile information on the people behind the various entities listed on the documents and also information tying the lender to the scam.”



X. MINNESOTA: High-profile cases spawn a new state law

Several high-profile, multi-victim cases in this state led to a new law curbing foreclosure “rescue” scams.

Assistant Attorney General Prentiss Cox told NCLC that “two big actors” were behind deals with some 350 homeowners, and that several other “rescue” operators had done 20 to 80 deals each. He estimates that about a quarter of Minnesota’s 2,500 annual foreclosures in recent years were lost to scammers.

Cox laid the outburst to the state’s first big run-up in real estate prices in recent years combined with job loss in important sectors of the state’s economy and what he called “the tail-end effects of a sub-prime lending cycle” where consumers threw in the towel trying to pay off high-priced loans.

“We saw a lot of folks go into credit card debt in order to re-finance their homes with sub-prime loans, and then from there to collapse,” Cox said.

In December, Cox’s boss, **Attorney General Mike Hatch**, announced settlement of a foreclosure equity stripping case against James Hoffman, Home Funding Corporation and Homeland Financial Corporation.

The settlement, reached during trial of a lawsuit brought by Hatch, resulted in a court order that Hoffman and his companies be permanently barred from any business related to home foreclosures in Minnesota. The defendants were also required to deed back seven homes they fraudulently obtained through their scheme, pay restitution to more than 40 homeowners defrauded as part of the scheme, and pay a civil penalty of at least \$200,000 – the penalty was to be adjusted based on results of the restitution.

The lawsuit alleged a pervasive fraud focused on homeowners in foreclosure. According to a news release from Hatch’s office, Hoffman targeted homeowners in foreclosure or financial distress who had significant home equity. The release says that Hoffman and his companies promised these homeowners help in refinancing their mortgages but instead carried out a scheme that cost the homeowners their homes. At times homeowners didn’t even realize they no longer owned their homes until months later.

That could be because of the lawsuit's allegation that the scheme relied on forged documents and fraudulently obtained mortgage loans to business associates that enabled the defendants to strip equity from the homes.

Another Hatch case alleging a scam by a single operator involving some 75 homes is still to be decided.

In late 2003 Hatch filed suit against Hendrie Grant and Grant Holdings. At that time his office obtained both a temporary injunction shutting down Grant's business and appointment of a special master to resolve disputes over existing properties in Grant's portfolio.

Grant's attorney told **Minnesota Public Radio** that all of his client's deals are legal. Trial of the case was set to begin the second week of May.

St. Paul lawyer John M. Tancabel says he has "commenced several suits here in Minneapolis/St. Paul against scammers who approach persons in foreclosure.... My overall view is that these scams work because (a) there is an unscrupulous scammer, (b) a desperate and ignorant homeowner who wants to believe that they will be rescued from the brink by the scammer.

"The 'wanting to believe' is powerful and can cause ordinarily cautious people to ignore warning signs," Tancabel says. "Many of the scammers are bold. If you don't respond to their letters, they will ring the homeowner's door bell, introduce themselves, and try to invite themselves in.

"Scammers market their 'business' the following ways:

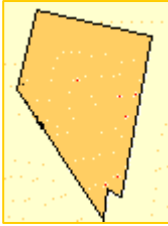
"1. Informing loan brokers that if they refer homeowners in foreclosure to them, they will be paid a referral fee.

"2. Writing (or visiting) a homeowner or employing a 'bird dog' i.e., a realtor, who obtains the trust of the homeowner and talks them into the transaction."

Leah Weaver of the Legal Aid Society of Minneapolis sent along a suit now being litigated in federal court where a Hmong immigrant family was allegedly victimized. Weaver says the broker who set this deal up is a repeat player in foreclosure "rescue" scams; Weaver's colleague **Kevin Reuther** says this broker has previously consented to revocation of his real estate and mortgage originators' licenses by the state Commerce Department.

"We're told that since he can't be involved in any real estate business he's now running classes that teach others how to set them up," says Weaver. "I've seen ads for this sort of thing in a local free weekly. They have titles like 'Fire your boss! Become a real estate investor like Trump!'"

Weaver also sent another lawsuit alleging that "rescue" scammers using a bait-and-switch scheme systematically tried to strip more than \$71,000 in equity from the home of a disabled and unemployed woman, who was under additional financial pressure because of the dissolution of her marriage.



XI. NEVADA:
"People in distress....don't exercise their rights"

"We see a lot of these cases but we don't litigate most of them," says **David Olshan of the Nevada Fair Housing Center**. "People in distress either don't exercise their rights or they think that what's happening to them is just a price they have to pay."

Olshan adds: "We discovered two seminars where they tell you everything you need to know to rip off homeowners."

Olshan and **Daniel Ebihara of Clark County Legal Services** have one provisional victory against a foreclosure "rescue" specialist that, as of early May, was in a process that may lead to appeal before the Nevada Supreme Court. In the original decision **Judge Jennifer Togliatti** voided the transaction and returned title of the home to Olshan and Ebihara's clients.

Their trial brief in the case against William Plummer et al states that Plummer and his daughter own and manage five companies and that:

"Mr. Plummer, through his various entities, preys upon homeowners who are near or in foreclosure. He 'purchases' the property by means of transferring the property to a trust in the name of the homeowner which he controls as trustee. Additionally, the beneficial interest in the trust is assigned to one of his companies. The use of the trust is to disguise the sale from the mortgage company so as not to trigger the 'due on sale' clause of the loan agreement. With little or no down payment, the homeowner is moved out and (Plummer) rents or sells the property to individuals who are unable to obtain credit to finance a home of their own.

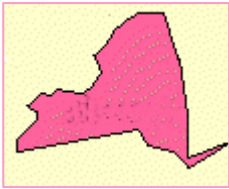
"Mr. Plummer through a series of documents and transfers through at least three of his companies attempts to avoid the obligation of paying the mortgage. Although he informs the homeowners that he will pay the mortgage, he never intends to become obligated to pay the first mortgage even when he 'sells' the property. If the property is rented or sold on an installment basis, he will use the money to pay the monthly first mortgage payments at his leisure and eventually sell the property for a profit in Las Vegas' fast rising market.

“The basis of his selected means of doing business depends upon avoiding the ‘due on sale’ clause he knows to be present in the homeowner’s mortgage. He argues that this is legal because he uses documents establishing the transfer of the property from the homeowner to a trust.”

Ebihara says he’s seen evidence such practices are widespread in Nevada, adding that the main problem in controlling these businesses is that “there is no requirement that any of these practices are regulated. The (state’s) Division of Financial Institutions does not consider them brokers because they ‘pass through’ the mortgage payments to the lenders. The Real Estate Division does not consider them real estate brokers because they are selling homes which they own. I would love to refer you to someone who knows but no one cares enough to deal with the situation.”

Olshan holds out hope about the potential Supreme Court appeal, saying: “If we win, we will end or diminish the practice in our State.”

But he says an effort to introduce state legislation further curbing these practices didn’t get off the ground in Nevada this year.



XII. NEW YORK: "The homeowners never see any of this money"

“We’re being bombarded with intakes (calls from potential clients seeking assistance) regarding these scams -- we have a couple of cases pending in court right now,” says **Brigitte Amiri of South Brooklyn Legal Services**.

Amiri’s colleague **Jessica Attie** adds: “I would say these scams seem to be reaching epidemic proportions in New York City. Six months ago, we would get one or two intakes a month involving these kinds of scams; now we get several intakes per week.

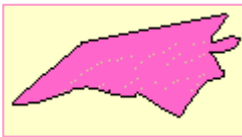
“They usually follow a pattern: Someone is in foreclosure; they get a solicitation promising to help them save their home; they contact the number listed on the ad and are connected with a ‘foreclosure rescue’ specialist who tells them that he will help them refinance their home at a lower interest rate. Then he either tricks them into signing away their deed or he comes to them and says, ‘your credit is lousy, the only way for you to save your home is to deed your property temporarily to a third-party so that she can take out a new mortgage.’

“The homeowner is promised that she will remain on the deed or will be put back on the deed in six months; she’s told that she can use this time to repair her credit; and that her mortgage payments will be lower because the third-party straw buyer has better credit.

“We have seen cases where the foreclosure rescue people take out new mortgages on the property that exceed the original mortgages by more than \$200,000. The homeowners never see any of this money and, needless to say, they can't afford to make the new mortgage payments, which are much more expensive than their original mortgage. The foreclosure rescue people then file eviction proceedings against the homeowner.”

Amiri says an effort is under way to enact state legislation curbing foreclosure scams. She says supporters are hoping to introduce a bill this spring but don't expect action on it until New York's next legislative session.

Upstate, **Rebecca Case Grammatico of the Public Interest Law Office of Rochester** reports that she's investigating a case where her client “paid \$650 to this ‘stop foreclosure’ company but they never contacted the mortgage company (to work out the past-due loan). Then they demanded more money to pull her out of foreclosure after I had already negotiated a deal with the lender.”



XIII. NORTH CAROLINA: "We've yet to see one....actually work"

Assistant Attorney General Harriet Worley reports that the state “has filed two cases against companies which advertised as ‘WE BUY HOUSES,’ in which they ended up taking title to a consumer's home through a trust instrument in which the defendants served as both trustee and beneficiary of the trust and the consumer had no remaining control over the house -- except that they were still on the hook for the mortgage.

“The defendants then ‘rented’ the house to someone with bad credit,” says Worley, “under the pretext that the consumer would be able to qualify for a loan after making timely payments. We've yet to see one of these deals actually work.

“This seems to be a huge problem in North Carolina,” she says.



XIV. OHIO: Scammers' mode of operation: Take a lot, do a little

Taking large fees for doing little appears to be a popular mode of operation for foreclosure "rescue" scammers in Ohio, a state with one of the nation's highest rates of homeowners in foreclosure. As we've seen throughout this report, letting foreclosure notices

languish, or dealing with them ineffectively, very often yields far worse results than simply doing nothing; it often runs out the clock on any chance to save the home

Last October **Attorney General Jim Petro** filed suit against W.J.W. Enterprises Inc. and its owner, James J. Warsing, alleging violations of Ohio's Consumer Sales Practices Act.

A news release from Petro states: "Numerous consumer complaints allege that W.J.W. Enterprises and Warsing failed to deliver mortgage-foreclosure-prevention services and made continuous misrepresentations that consumers in foreclosure could save their homes using Warsing's W.J.W. Enterprises' services.

"The sales pitch to consumers allegedly said that they (Warsing & W.J.W. Enterprises) could 'save' a consumer's home that was being foreclosed and halt the proceedings. Fees requested for this service ranged between \$3,000 and \$5,000."

Petro asked the court to enjoin the two firms from further deceptive business practices, to make them repay consumers' money lost on prevention services never received, and to impose civil penalties of \$25,000 for each violation. The case remained in litigation as of late March.

Assistant United States Bankruptcy Trustee Kristopher Aungst says the Trustee's office in Ohio has filed 57 "adversary complaints" against two firms involved in individual bankruptcy cases. Aungst says the firms, Foreclosure Solutions and H.R. Services, seek out people facing foreclosure, collect substantial fees from them for assistance in filing for bankruptcy, and then either fail to file proper paperwork or are filing papers "of very poor quality." This leaves the consumer without bankruptcy protection as well as poorer, since their cases are usually dismissed for lack of proper documents.

Aungst says eight of the complaints against H.R. Services have been resolved as of mid-April, with the judge enjoining the firm from further bankruptcy work, ordering it to return all fees collected and tacking on fines in some cases.

Mark Wiseman of the Cleveland group Housing Advocates tells of one foreclosure "rescue" case he's handling where "the most outrageous part, so far, is that the company uses an attorney who signs the borrower to an agreement that says 'I will file an answer on your behalf, but WILL NOT litigate the case in your defense.'

"Curiously, by having an attorney file an answer on your behalf and then ignore the case, you are worse off in Cleveland," Wiseman says.

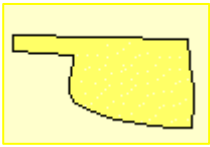
That's because time runs out on more meaningful solutions.

Dayton attorney Chuck Roedersheimer says he's seen two types of scams "which are major problems in Ohio" and the Dayton area. The first he describes as:

“Supposed counseling companies....who advertise that they will assist individuals in foreclosure by working with the defaulting loan holders to negotiate (modifications) or forbearance agreements. Some even go so far as ‘hiring’ an attorney to file a pleading in foreclosure lawsuits but of course never file any additional paperwork and simply delay the motion for default. The fees charged to people are from \$750 to \$900, and services and benefits are minimal.”

Roedersheimer calls the second type of scam “Rent-to-Own Scams,” where “prospective entrepreneurs are advised how to establish agreements with people having trouble selling their homes.” He describes a complex set of arrangements where the end result is that the entrepreneurs walk away with a substantial chunk of the home’s equity. The original owner ends up either out on the street or gets, at best, a reduced slice of any sale proceeds.

Roedersheimer says these cases are hard to prosecute. “The only realistic remedies in Ohio against these (scams) are fraud claims, and that is a tough case to make under Ohio's statutes and case law.”



XV. OKLAHOMA:
"Guess what, you need a Chapter 13!"

Laura Frossard of Legal Aid Services of Oklahoma reports:

“There are several foreclosure assistance scams in Oklahoma. I have sued one company.....They send letters to people who have just been sued in foreclosure stating that they aren't attorneys nor are they mortgage brokers but they will somehow stop the foreclosure. They get \$1,000 from the desperate homeowner and then file a pro se (representing themselves) entry of appearance in the foreclosure (proceeding) signed by the borrower, which does nothing but slightly slow down the foreclosure process. Then, after judgment in the foreclosure they tell the borrower ‘Guess what, you need a Chapter 13 bankruptcy!’ But now the borrower does not have the \$1,000 that could have been used to file the Chapter 13!”



XVI. TEXAS:
Notorious Colorado figure gets back in business

When we last left notorious foreclosure “rescue” operator Ryan Searle and his family Searle was leaving Colorado after essentially being shown the door; State regulators there had

revoked Searle's real estate license and secured a \$1.1 million judgment for people Searle and his family businesses allegedly duped into giving up their homes.¹²

Investigative reporter Nanci Wilson of Austin's KEYE-TV picked up Searle's trail in Texas. It's important to note here that neither Wilson nor NCLC can prove at this point that Searle's Texas activities are illegal, but Wilson's research shows that Searle and his family are once again knee-deep in the real estate business, and some of their transactions bear disturbing similarities to their Colorado work.

Wilson provided NCLC with documents from several transactions she's looking into and says she has traced Searle or members of his family to transactions involving 65 properties.

Some quick background first: Wilson says Ryan Searle is married to Stephanie Stock Searle, that her brother is Stephen Trent Stock, and that Kiffon Stock is believed to be their sister.

"They use deeds of trust, signed over to them or to a trust that a Stock is trustee for and Searle signs off on, or the other way around," Wilson told NCLC in a telephone interview. "They'll transfer a property to this trust, and Stephen Stock will be the trustee and then he'll transfer it to another trust. I think the more confusing you make the paper trail the harder it is" for an investigator to track.

Wilson also said two other notaries regularly show up on Searle/Stock real estate transactions, and that one of them later served as a trustee on some of the trusts.

One document Wilson sent turns a property over from the grantor, "Stop Foreclosure Ltd.," to "The Clever Trevor Trust, c/o Stephen J. Stock." The Stop Foreclosure "general partner" listed at the end of the document is Ryan Searle, and it's all notarized by "Kiffon D. Stock, Notary Public State of Texas."

Two other documents list the Grantor as "Home Solutions of Texas, LLC." They're both signed by "Trent Stock member Home Solutions of Texas LLC" and notarized with the seal of "Ryan D. Searle, Notary Public State of Texas."

So, family members appear to be signing off each other's paperwork.

"I can't say yet whether a big chunk of equity was stripped away on any of these," Wilson cautions.

¹² More details can be found in the "Colorado" section of this report and are available on the website of the Colorado Attorney General's office. The AG's announcement of the court-ordered judgment against Searle cited his "unlawful efforts to take the homes of financially distressed consumers." The Denver Post also reported extensively on Searle's activities at the time of his troubles there.

There's a hint that Searle may be teaching his real estate tactics as well. Wilson adds that while examining similar cases she'd seen an acknowledgment on one website that the person involved "learned through the great real estate guru Ryan Searle."

In an apparently unrelated matter, Wilson says Searle is facing a criminal charge of aggravated assault with a deadly weapon in Texas. She says the charge stems from allegations that Searle pulled a gun and tried to run over the president of a homeowners' association who was trying to flag him down "after he snuck into a gated community before the gate closed."



XVII. VIRGINIA:
"My client is paralyzed with fear"

In Virginia they'll send a thousand-dollar check with your name on it (see example in Appendix A) in order to entice you into business with one "We Buy Houses" firm, Richmond Investment Group LLC.¹³ That's what one person contacting the non-profit counseling group **Housing Opportunities Made Equal (HOME)** received in the mail.

HOME's Paula Sherman in Richmond says foreclosure rescue activity "is going hot and heavy here. There are many, many signs around – bright yellow with black lettering and some of them are neon. They're all over the city in all neighborhoods, all income levels. They're at highway exits, on electric poles and on the median at intersections (see photos at the beginning of Part 1). They say they're going to save you from foreclosure but they don't deliver. You're giving your house away."

Sherman says her office is handling one case where "the client is frantic." Both he and his wife are disabled, they were behind with their mortgage payments and the foreclosure process had started.

Desperate to bring his mortgage current, this man read an ad for a "rescue" company in the Black Pages, a kind of Yellow Pages for businesses in the African-American community that he got at his church. According to one of Sherman's colleagues at HOME this is what happened next to the client, who asked that all identifying details of his story be eliminated because he is so afraid of losing his home to his one-time "rescuer."

"(The client) contacted (the "rescue" firm), and had someone meet him and his wife at their home. (The "rescuer") explained that they could find an investor to pay off the current mortgage holder (client owed \$16,000). ("Rescue" firm) would pay off the loan and also give

¹³ See a copy of Richmond Investment Group's pitch in Appendix A.

the couple a few thousand dollars. (Client) would make a monthly payment of \$1,800 for a year, and then the loan could be refinanced and more affordable payments would follow. The client was under the assumption that the investor would become his new lender and that he would no longer owe (his original mortgage company).

"The day before the sale date of his home (client) was asked to go to the law offices of (attorney) in Newport News, Virginia to sign paperwork to stop the foreclosure of his home. (Client) and his wife never met with an attorney but were given a deed of gift to sign, by a secretary. They signed without fully understanding what a deed of gift was. He actually thought it was a promissory note.

"The next day a check for \$16,000 was sent to (the original mortgage company). The check was made out to the client and his wife and the memo noted that the check was for down payment assistance and purchase of the property. The clients stated that they never were given the check and they never endorsed the check. (Mortgage company) used the check to bring the mortgage current and assisted the clients with a loan modification to improve their current interest rate. At this point (client) understood that he still had a mortgage loan with (mortgage company) and was not sure what (the "rescue" firm) had done.

"It was not until March when the client contacted HOME that he understood the impact of the deed of gift. ("Rescue" firm) put a for sale sign in his yard. He contacted ("rescue" firm) and was told that he had not made any payments on his loan and ("rescue" firm) was going to sell his property. He was threatened not to take the (for sale) sign out of his yard and not to contact a lawyer. (Client) did not want our agency to contact ("rescue" firm) because he was scared he would lose his home. We have referred him for legal assistance and are trying to support him with additional resources."

HOME's Paula Sherman adds that this client told her "I'd have never sold my house for \$16,000." Sherman believes the home is worth about 15 times that amount, or \$235,000. Now, she told NCLC in April, "this guy (from the "rescue" firm) is forcing the sale of the property and threatening my client daily; telling him 'if any agency contacts me I know judges, I know lawyers, I know state troopers.' My client is paralyzed with fear."



XVIII. WASHINGTON: "The whole thing was set up to fail"

Seattle attorney Melissa Huelsman says she's filed four lawsuits in foreclosure "rescue" cases and is planning several others.

One suit was filed against a firm called Godsend Security Funding Inc. and other defendants. Huelsman says she's looking into at least five other Godsend deals. She's also investigating a possible link between Godsend's principals and a popular local seminar that teaches investors how to structure so-called "lease-buyback" deals on distressed homes. In these deals, she says, the homeowner typically comes away with just half of the home's built-up equity.¹⁴

In her Godsend suit the homeowner alleges that she owed \$88,000 on a home worth at least \$192,000. The home was sold to a third-party investor after Huelsman says the homeowner "signed two versions of the deal," and that the documents' contents somehow changed over the course of several months.

In the end, more than \$64,000 of the home's value went to Godsend and another \$38,400 in value vested with the "investor." On top of that the homeowner ended up paying \$620 a month to remain in her former home as a renter, just \$20 less than she'd been paying on her mortgage in the first place!

"Obviously the whole thing was set up to fail from Day 1," says Huelsman. Trial in the case is set for July.

Huelsman says all the scams she's seeing "are variations on a theme." Aside from the scenario described above Huelsman reports this tactic: "The client goes to get a new loan and the mortgage broker convinces her she can't get (qualify for) a loan. The homeowner is then told by the same mortgage broker, 'We can help save you.' This sets the stage for a lease-buyback scheme or other equity-stripper."

PART 3. DO-IT-YOURSELF EQUITY STRIPPING: THE INFORMAL INDUSTRY TEACHING "RESCUE" TACTICS

The advertising is all over TV, often late at night. It's on prime-time radio and the Internet, in full-page newspaper spreads (examples in Appendix A) and street flyers.

"Buy Real Estate With No Money Down!" "Foreclosures Reach Record High," "Want to Become a Millionaire?" and "Build Wealth a House at a Time" are common come-ons.

¹⁴ From Godsend's website: "Godsend Security Funding, Inc. (GSFI) is a Washington business corporation that purchases properties that are in foreclosure. GSFI then leases the property back to the former owner for a period of 18 to 36 months with an option to repurchase the property for an agreed price." <http://www.godsendsecurity.com/>

In fairness, not all these businesses are scams.¹⁵ A few are merely information services, and some teach techniques that actually involve a bit of effort and disclosure by the investor -- though they often gloss over the effort, know-how and levels of manipulation involved.

But even those businesses are often dedicated to the proposition that taking a big slice of someone's home to work them out of a financial bind is fair. Many of these businesses make a point of assuring "rescue" scammers-in-training that these techniques are okay because everyone supposedly wins -- not only are the "rescuers" making buckets of money but they're actually solving the problems of families facing foreclosure.

NCLC advocates strongly disagree -- there are almost always far cheaper ways to work one's way out of a debt jam. The line between help and exploitation is not so hard to see.

And then there are the scores of even less benign businesses.

NCLC investigators heard from Texas that a foreclosure "rescue" shark who was put out of business in Colorado turned up in Texas a short time later, with indications he's teaching his real estate methods there. Sources in Michigan say they detect similar techniques among nominally independent foreclosure "rescue" operators, a sign the method is being marketed. Minnesota attorneys believe foreclosure "rescue" tactics are being taught there. In Nevada legal services attorneys came across two seminars teaching "everything you need to know to rip off homeowners." In Washington state there appears to be a link between one "rescue" firm now being sued and a popular local seminar. And multi-state operators were uncovered in California, Michigan and Massachusetts.

There's also simple apprenticeship. "I think the more common way that this scam is 'taught' is via on-the-job experience," says investigator Nicholas Aquino of the Los Angeles County Department of Consumer Affairs. "Generally, new start-ups are run by former employees of established scammers."

In North Carolina this past January, Julie Daniel of the state attorney general's Consumer Protection Division attended the two-day seminar of "Millionaire Maker Ron LeGrand" and three colleagues in Raleigh. She reports that LeGrand "has a whole other course in so-called 'short sales'" involving properties in or near foreclosure. She says a big part of the two days were sales pitches for further seminars costing several thousand dollars or at-home courses costing hundreds.

Some of LeGrand's wisdom as recorded by Daniel:

¹⁵ The Washington Post's Sandra Fleishman examines the shortcomings, and worse, of numerous leading real estate pitchmen in her article "Pitch to Get Rich Quick; As Realty Seminars Hawk Investment Techniques, Caution Is Advised," Feb 22, 2003.

- "People exchange equity for peace of mind."
- Focus on people who *need* to sell, not those who *want* to sell.
- Look for properties where there is equity the day you buy.

Daniel says LeGrand also touts ways to control properties without actually owning them, to assume ownership while leaving the previous owner responsible for outstanding loans ("you take the deed but never promise, even verbally, to pay off anything" Daniel wrote in her notes), and use land trusts for taking control.

Her notes on LeGrand's talking points, which she shared with NCLC, state: "Never put (the property) in your own name because (1) world has no clue you are involved; your name does not appear in documents; a court order would be needed to get your name. (2) liens against you do not attach to properties in land trust."

As reported in Part 2 the Florida entrepreneur Bill Duquette, target of two lawsuits over his foreclosure "rescue" tactics filed by Jacksonville Legal Aid, touts his ability to teach his real estate skills to willing customers on his www.billbuyshouses.com website.

Duquette will sell you his \$695 home-study course but gives few details of it on the website. However, the "Sell in 9 Days" section of the site for homeowners anxious to sell contains a fill-in form that hints at what Duquette's techniques target. Three questions potential sellers must answer:

- "Are you selling your house for the loan bal(ance)?"
- "If no, how close to the bal(ance) will you sell?"
- "What is the value of the house?"

It seems clear that Duquette's interest in home sellers has a lot to do with how much of their equity -- the amount above what they owe -- they're willing to part with.

Writing about foreclosure "rescue" scams in the Maryland business newspaper The Daily Record, Kathleen Johnston Jarboe cites California real estate writer John Reed, a self-appointed critic who has written extensively on get-rich-quick-with-real estate gurus, and his take on many of their plans.

"Just about everybody knows someone who made money in real estate," Reed told Jarboe, "so the notion that you can get rich quick in real estate is a plausible scenario to laymen. I think the people who teach it probably taught the bad guys. But I don't think the people who teach it are interested in getting their hands dirty in real estate."

Reed says that while it's possible to buy pre-foreclosure properties ethically it's not the way many operate.

"Don't portray the offer as the best possible," he says. "The whole reason for this (deal) is to buy the house for less than it is worth....I've never done it. I just couldn't stomach it."

In NCLC's own investigation we noticed messages on ostensibly unrelated foreclosure "assistance" websites from several states that were nearly word-for-word identical -- a strong indication their "program" is a packaged one.¹⁶

Then there are real-estate "training" programs that apparently aim to simply make as much money as possible off their customers. A website called infomercialscams.com, for instance, contains a long litany of unedited consumer complaints about well-known TV pitchman Carleton H. Sheets' "No Down Payment Real Estate Program." On this website, those saying they did business with the Sheets program complain about over-billing, having supposedly-permissible refunds blocked and having loads of "extras" tacked onto their orders either without their permission or after extremely aggressive sales pitches.¹⁷

Another website called foreclosures.com features long lists of real-estate training "Gurus to Avoid" and "(Web)sites to Avoid."

¹⁶ As of early April, for instance, the website of Resolution Home Buyers in New Ipswich, New Hampshire, was prominently displaying a mouse-click on its home page that leads to the message below. We found large sections of an exceedingly similar message on several other seemingly unrelated websites--it repeatedly stresses that the distressed homeowner must act quickly, it cautions the homeowner to not trust lawyers for help and it urges them to sell the home that's in foreclosure -- three pieces of advice that, at best, could be called misguided in a great number of cases.

See also the websites of Walk-Away-Today, which lists a Minnesota telephone number, HouseCashQuick.com which lists a Baltimore address, the Matador Group which lists a Houston address and The Wierman Group listing a North Carolina address as just four other examples of a very similar message. <http://www.walk-away-today.net/Home.cfm>, <http://www.housecashquick.com/>, <http://www.tmgtxas.com/cont.html> and <http://www.cashforyourhouse.us/foreclosure.htm>.

Here's the Resolution Home Buyers website message:

"If you are facing foreclosure the best advice we can give you is ACT NOW! Many people facing foreclosure simply do nothing and hope for a miracle. Don't fall into that trap!

"Some homeowners seek advice from a lawyer (and why not - a lawyer is supposed to have all the answers right?) Maybe -- but then maybe not! Some homeowners act on their lawyer's advice and file bankruptcy thinking that all their problems are now solved. Bankruptcy does put a hold on everything, yes, but all it buys is a little time. The end result is the property almost always going to auction and you now have a foreclosure in addition to the bankruptcy on your credit report

"In almost ALL cases, the best thing for a homeowner to do when in foreclosure (assuming that the homeowner's loss of income is not temporary) is to SELL THE PROPERTY! When you sell the property, you avoid the foreclosure and possibly a bankruptcy on your credit report and you can get on with your life.

"We can bring your payments current and in many cases even give you equity back out of your home. We can even help in most situations when there is little or no equity in the house.

"TIME IS YOUR ENEMY! If your house payments are more than a month or two behind, your lender has probably already started foreclosure proceedings. As time passes thousands of dollars in penalties and legal fees can be added to the balance you owe. Every single day extra interest is added! The longer you wait the harder it is for us to help you. You must act quickly. "

¹⁷ See these complaints at http://www.infomercialscams.com/carlton_sheets_no_down_payment.htm

"Stay unassociated with the end results. Caring costs money. "

(Harvard Law School's Predatory Lending/Foreclosure Prevention Clinic, a neighborhood legal services office in Boston, sent law student Dan Lipton to a Dallas seminar on how to structure real estate deals using the "Bill Gatten Land Trust." The trust appeared to be a model for some of the foreclosure "rescue" scams perpetrated on the Center's clients. Gatten himself taught the seminar.

What follows are excerpts from Lipton's report, including some of his own conclusions about the Gatten Trust based on what he learned. At the clinic's request we removed the name of the affected client.)

"Bill Gatten spent two and one-half days in his seminar going over the intricacies of the land trust. However, only one day of that time was devoted to substantive trust education with the remaining time devoted to selling his program (Books, Tapes, Network Fees) and doing "magic" to condition the audience that things are not always as they appear....

"The two primary advantages of the Trust emphasized were its ability to circumvent the Lender Due on Sale Clause (note: this clause requires mortgages to be paid off upon transfer of the property unless the mortgage holder gives written permission to the contrary), and to facilitate the fastest way to evict a lessee from their property if they default on their lease payments." (note: the lessee is generally the owner who has surrendered ownership of the home in exchange for a foreclosure "rescue" plan that supposedly will allow recovery of the property later.)

Lipton notes that the Trust is supposed to give owners facing foreclosure a chance to buy back their property if the Trust agreement is followed to fruition. But he writes that "this scenario is extremely unlikely" because terms of the buyback deal are so onerous, and there are so many ways to drain equity from the property before the agreement's end, that the initial homeowner is unlikely to recover.

In his report Lipton poses the question: "What is the likely result of the trust agreement?" and answers:

"The most likely result (client) could have anticipated when signing the trust agreement is exactly what the other co-beneficiaries hoped for: a default on (the client's) obligations resulting in an implied intention to sell their beneficial interest, followed by a quick eviction from their home. As Gatten preached over and over again in his seminar program, 'stay unassociated with the end results, and caring costs money.' He specifically gave an example where it was necessary to evict an elderly woman from her home after her husband passed away and she could not meet her obligations."

After reviewing likely outcomes for the trust as he understood it, Lipton penned the following conclusion:

"These different results create a lose-lose situation for someone like (client). There is no way that (client) would ever be able to repurchase her home from the trust. If (client) did see the trust to fruition, all she could hope for would be to accrue some amount of the appreciation value. But at this point, where is (client) to go? Gatten knows that the resident/beneficiary wants to stay in their home as long as they can. Thus he puts in a nice provision into the occupancy agreement that allows the resident/beneficiary to stay in the home on a month-to-month basis for as long as the trust term (20 years) after the original period has expired.

"Basically, if the resident/beneficiary has not defaulted yet give him time, he eventually will. This does create a scenario which fits in nicely with Bill Gatten's mantra, one that he repeated over and over again: 'Caring costs money and stay unassociated with the end result.'

"The complexities of the trust make it difficult for anyone to understand. As a law student who has taken property, real estate litigation and fiduciary relations I had trouble keeping up with what it all meant.....It took me at least two weeks to put it all together."

PART 4. FIGHTING BACK: WHAT REGULATORS, THE LAW, ENFORCEMENT, AND CONSUMERS CAN DO

I: Can Homeowners Fight Back Effectively?

Most homeowners who find themselves in the difficult situations described in this report face two major hurdles in getting to a court that will protect them. The first relates to access to the right people and resources to help. Few private attorneys are both knowledgeable about these scams and able to put in the time and effort needed to track down the perpetrators, sometimes across state lines. Distressed homeowners often cannot pay their attorneys to handle these cases, another disincentive for the few who might help.

And state enforcement agencies may not be able to help individual homeowners save their homes while the agencies process complaints. While most state criminal prosecutors possess a few tools to fight these scams today,¹⁸ they may lack the resources to tackle the scammers and hold them responsible. Finally, these agencies may believe they lack authority to pursue these cases, particularly where there is no licensing regime that grants specific authority. As stated elsewhere in this report, these are scams that too often fall through the cracks of law enforcement.

The second major hurdle is that the remedies available in state law for harmed consumers may be few or difficult to secure. Traditional state law claims based upon fraud, conspiracy, breach of fiduciary duty, and the like require proof of special elements, often by a heightened standard of proof.¹⁹ State unfair or deceptive acts and practices laws (UDAPs) may exclude from coverage "services" such as those provided by foreclosure specialists, real estate transactions, or certain professions such as attorneys or realtors.²⁰ State credit repair statutes may not apply if the perpetrators do not promise to obtain a loan or improve the homeowner's credit. In addition, the assets of the scammer may be hidden in ways that make it impossible for individual consumers to find and, therefore, recover. State law may not protect consumers if their houses are sold to third parties who allegedly had no notice of the fraud. When this happens, it is virtually impossible to convince a court to deed the house back to the consumer.

¹⁸ State laws criminalizing fraud, conversion of property, and racketeering activities exist in many states.

¹⁹ In addition to common law fraud claims, about 31 states enacted Racketeer Influenced and Corrupt Organizations (RICO) Acts. However, seven of these laws (CA, CT, MN, MI, NY, OK, PA) do not provide a direct remedy for the harmed homeowner. Only the state may sue or bring criminal charges. *See* National Consumer Law Center, *Unfair and Deceptive Acts and Practices* § 9.3 (6th ed. 2004). A summary of the state RICO laws appears in Appendix C.2 of this volume.

²⁰ *See* National Consumer Law Center, *Unfair and Deceptive Acts and Practices* § 2.1.7 (6th ed. 2004). A summary of the state UDAP laws appears in Appendix A of this volume.

In light of these deficiencies several states enacted laws targeting foreclosure scam activities, including California, Georgia, Maryland, Minnesota, and Missouri.²¹ California passed its laws in 1979 well ahead of the other four states. California was followed by Georgia (before 1990),²² Missouri (1991), Minnesota (2004), and Maryland (2005). These laws differ dramatically in scope and strength. The common thread among them is that they contain a right to cancel the transaction for limited periods of time. These state laws are described in Appendix B.

California enacted its fairly protective laws over twenty-five years ago. As this report has shown, foreclosure scams occur regularly in that state nonetheless. It is too soon to tell what impact the Minnesota and Maryland laws might have on this industry.

The recommendations regarding how states may comprehensively protect homeowners plagued by foreclosure "rescuers" follow.

II: Recommendations to States: Beef Up Your Laws or Witness a Mounting Loss of Home Ownership

In making the recommendations below we are guided by the following principles. State law should: 1) apply the law broadly and permit few, if any exemptions; 2) stop foreclosure scammers from stealing money and equity from struggling homeowners; 3) hold the scammers responsible for their actions; 4) provide critical remedies to help the homeowners recover from the harm they experienced; and 5) prevent the perpetrators from absconding with their ill-gotten gains.

Accordingly, states can follow one of two routes: *ban* the activity outright or *regulate* these transactions.

a. To Ban This Behavior

To ban this behavior states must:

- Broadly define the activities of the foreclosure consultant, property purchaser, and equity surplus purchaser;²³
- Permit no or few tightly defined exemptions from the general definition;

²¹ Cal. Civ. Code §§ 2945.0-.11 (foreclosure consultant); Cal. Civ. Code §§ 1695.0-.17 (home equity purchaser); Ga. Code Ann. § 10-1-393(b)(20)(A); Md. Real Prop. Code Ann. § 7-105(A-1); Md. Real Prop. Code Ann. §§ 7-301-321; Minn. Stat. Ann. §§ 325N.01-.18; Mo. Ann. Stat. §§ 407.935 - .943.

²² See *Beasley v. Paul*, 478 S.E.2d 899 (Ga. App. 1996)(applying this provision of Georgia law to a contract signed in 1990).

²³ This report primarily documents the activities of foreclosure consultants and foreclosure property purchasers. A third type of abuse involves those who "buy" the homeowner's right to any equity in the home to which the homeowner is entitled after a foreclosure sale. This surplus "sale" essentially is a loan secured by the equity proceeds. The California and Maryland laws regulate these deals.

- Criminalize the conduct of these persons and render any such transactions void;
- Penalize by making violations a felony;
- Pursue restitution to the homeowner in every case;
- Provide authority to the state prosecutor or attorney general to freeze the assets of the perpetrators during the pendency of the prosecution.

b. To Permit but Regulate This Behavior

The recommendations in this section are listed under two categories: those that are the most critical and those that are additional important protections. Many of the provisions listed below are contained in some form in the laws of California, Georgia, Maryland, Minnesota, or Missouri.

The "Critical Provisions" list addresses the concern that current laws exempt some of the very people involved in the scams, a problem noted in this report. And in cases where the foreclosure rescuer or a confederate "buys" the home and the consumer has an option to buy-back or lease-back, the law must require an accurate assessment of the homeowner's ability to repay within a specified period of time. Otherwise, these deals are doomed to fail from the outset and the loss of the home is a foregone conclusion. In addition, the fees and any interest charged by the foreclosure "rescuer" must be reasonably capped to protect the homeowner from equity stripping and price gouging. Finally, the homeowner must have access to a court that has the authority to award appropriate legal and equitable remedies and is also able to preserve the abusers' assets during the course of the litigation.

The "Additional Important Protections" list builds upon provisions in the laws of California, Maryland, and Minnesota. They are provided to give state legislators suggestions for a more comprehensive act.

b(1). Critical Provisions

- Licensing and exemptions

Tightly define the activities of the foreclosure consultant, property purchaser, and equity surplus purchaser (hereafter referred to as the "covered entities"); create a licensing regime that only exempts persons who are licensed under other laws but conditions retention of licensure under other law on the compliance with the non-licensing provisions of this law; failure to obtain a license, if required, voids the transaction.

➤ Ability to repay

Require that covered entity assess ability to repay an agreement to re-purchase the home; establish a presumption of ability to repay when the homeowner's monthly payments to the covered entity, including principal, interest, taxes, insurance, and other assessments combined with the scheduled payments of all other debt of the homeowner do not exceed 50% of the borrower's documented and verified current monthly gross income, if the borrower has sufficient residual income as defined in the guidelines established in 38 C.F.R. § 36.4337(e) and VA Form 26-6393 (or successor provisions) to pay essential monthly expenses after paying the scheduled monthly payments and any additional debt.

➤ Caps on fees and interest

Foreclosure consultants: Limit the amount of fees and interest that the foreclosure consultant can receive to 10% per year and prohibit the payment of any fees or interest until all services are performed; fees in excess of this provision void the contract.

Foreclosure purchasers: Limit the amount of fees and interest the foreclosure property purchaser can receive to 10% of the net sale proceeds²⁴ if the re-sale is conducted within 24 months after entering into the agreement with the homeowner; to 15% of the net sale proceeds if the sale occurs between 24 and 48 months after entering into the agreement; and to 18% of the net sale proceeds if the sale occurs between 48 and 60 months after entering into the agreement; fees in excess of this provision void the contract; in no event can the re-sale of the home occur later than 60 months after entering into the agreement; the covered entity cannot sell or mortgage the property to a third party during the term of the agreement.²⁵

Foreclosure surplus purchasers: Limit the fees and interest that a surplus purchaser can charge to \$50 per \$1,000 of the net proceeds from the sale of the home;²⁶ fees in excess of this provision void the contract;

Prohibit the taking of wage assignments or other security from the homeowner.

➤ Consumer remedies and law enforcement

Permit both a state agency and the homeowner to file actions seeking actual damages, equitable relief (including the ability to quiet title and including the right to enjoin future conduct),²⁷ rescission, voiding of the contract in the circumstances outlined in the act, statutory damages of \$2,000 per violation, and exemplary damages of three times the actual damages, whichever is greater, attorney fees, and costs; as a condition of licensure, require the covered entity to obtain a bond in an amount equal to the

²⁴ The net proceeds could be defined as the difference between the amount the covered entity pays the consumer to deed the house over to it and the amount the consumer pays to repurchase it (including all rent or lease payments).

²⁵ In the alternative, the mortgage or reconveyance should be subject to the same repurchase price as if the covered entity held title. In other words, the agreement would run with the land.

²⁶ Note that \$50 per \$1,000 for a loan outstanding for 30 days yields an annual percentage rate of 60%. If the same loan is outstanding for 60 days, the APR is 30%.

²⁷ The consumer should not have to show that the consumer or other consumers were actually defrauded in order to obtain an injunction prohibiting future conduct.

projected volume of business²⁸ over the calendar year so that harmed homeowners may use it to obtain restitution for violations of the act; and prohibit unfairness, deception, and unconscionability in the deal.

Permit the homeowner or the state to freeze the assets of the defendant and file notice in the deed record office of the litigation (*lis pendens*) during the time the case is pending case to prevent the covered entity from absconding with the money.

Require the covered entity to record any conveyance document from the homeowner to the covered entity or third party in the appropriate land records office within a specified period of time after the signing²⁹ which must contain a notice that the deed was obtained through a transaction covered by the act; any promissory note executed in conjunction with the transaction must also contain this notice; failure to record or to include the notice voids the deed and related contracts.³⁰

Require that the covered entity or other person must use the state's judicial foreclosure procedure to attempt an eviction of the homeowner from the property.³¹

Repeal the applicability of the parol evidence rule³² to the extent it would prohibit a witness from testifying as to the oral representations or statement of the covered entity or other persons related to or aiding or abetting the covered entity.

Criminalize violations of the act with felony penalties and restitution to the victim.³³

b(2). Additional Important Protections

➤ Timing of coverage and warning

Trigger the act's coverage at the time of a default by the homeowner as opposed to after the homeowner receives notice of any sale in a non-judicial foreclosure state or at the time of receipt of the foreclosure lawsuit in a judicial foreclosure state.³⁴

²⁸ The volume of business should be tied to the fair market value of the properties of the number of homeowners the covered entity expects to reach in the first year of licensure. In subsequent years, the amount of the bond should be tied to the actual volume of business defined to be the fair market value of the properties in the entities portfolio.

²⁹ If the act contains an unconditional right to cancel, the time period for filing should be immediately after the expiration of the cancellation period.

³⁰ This provision puts third parties on notice of the type of transaction reflected by the deed transfer and makes it more likely that a homeowner can recover a home lost through a deal that does not conform to the statute's requirements. Sales to alleged innocent third parties is a serious impediment to the homeowner keeping or retrieving her home.

³¹ The use of a judicial foreclosure process is necessary to permit homeowners adequate opportunity to find attorneys to represent them and to provide an appropriate forum to obtain the needed relief. Landlord-tenant courts usually are courts of limited jurisdiction without the ability to hear certain claims and defenses to the eviction and to award monetary or equitable relief to the homeowner. The courts in which foreclosures are filed often have the powers missing from landlord-tenant courts.

³² This rule of evidence forbids the consumer and others from testifying about oral statements made when a written documents embody a transaction.

³³ California, Maryland, and Minnesota criminalize this conduct but make the crime a misdemeanor. Given the gravity of the harm involved, a more onerous criminal penalty is recommended.

³⁴ Note that the majority of states permit non-judicial foreclosure procedures if the mortgage contains a power of sale provision. Typically, this process is quick and requires notice to the homeowner by the mortgage holder of the date of the sale a certain number of days in advance. The details of the sale are also advertised in a local paper

Mandate that the mortgage holder send a segregated notice with the first notice of default to the homeowner warning of the existence of foreclosure assistant abuses and advising the homeowner of free or low-cost homeownership counseling available in the community offered by a regulated counseling organization.

➤ Right to cancel

Provide for an *unconditional* right to cancel the transaction within 10 days of the signing of a contract; prohibit any performance under the contract during the unconditional cancellation period.

Provide an *extended* right to cancel the transaction for violations of the act or in the event the contract is unconscionable, combined with certain remedies modeled upon the extended right to rescind under the federal Truth In Lending Act; this right would expire at the same time as the statute of limitations period provided for in the act.

The notice of cancellation must be in at least **14 point bold print** and 2 copies of the notice plus one copy of all transaction documents must be given to each person with a property interest in the home.

➤ Closing

Require that the parties must attend a closing conducted by an agent not affiliated with the purchaser; the closing must occur in the office of the closing entity.

➤ Additional remedies

Make any breach of the contract(s) a violation of the act; make any violation of this act a violation of the state unfair and deceptive trade practices act.

Create a presumption that a transaction set up as a sale-leaseback or option to re-purchase creates an equitable mortgage.

Ban any clauses in the agreements that waive any right under the act.

III. What Consumers Can Do³⁵

We hope this report makes it abundantly clear that most consumers can't be blamed for falling under the spell of unscrupulous "rescue" scammers who break the law, dupe them or appeal to their deepest anxieties in moments of severe stress.

of broad circulation. See National Consumer Law Center, *Repossessions and Foreclosures* § 16.2.3 (5th ed. 2002 & Supp.). A compilation of state foreclosure laws is located in Appendix I of this volume.

³⁵ Where not otherwise noted, information and recommendations for this section were drawn from NCLC attorneys and advocates, our field interviews for this report, and from a diverse array of sources including the federal Department of Justice's U.S. Trustee Program, the Illinois Legal Aid website of Chicago-Kent College of Law, Consumers Union, the office of Denver District Attorney Bill Ritter and the Better Business Bureau of Eastern Washington, North Idaho and Montana.

Increased consumer vigilance is nevertheless part of fighting the scammers. The following advice for homeowners facing foreclosure or having trouble paying their mortgage, from the federal Department of Justice's U.S. Trustee Program, is as good a place to start as any:

Proceed with care if an individual or company:

- Calls itself a "mortgage consultant," "foreclosure service," or something similar.
- Contacts or advertises to people whose homes are listed for foreclosure, including anyone who sends flyers or solicits door-to-door.
- Collects a fee before providing services to you.
- Tells you to make your home mortgage payments directly to the individual or company (and not the mortgage lender).
- Tells you to transfer your property deed or title to the company.

Contrary to advice given by many scammers, homeowners in trouble **SHOULD** stay in touch with their mortgage company, contacting the company or a lawyer first when in trouble. There are many ways to prevent the loss of your home, or at least to walk away with all or most of its built-up equity if all else fails.

And don't be afraid to seek help! As several lawyers we interviewed told us, people in distress either don't exercise their rights or think that what's happening to them is just a price they have to pay for financial trouble. But in most cases you **DON'T** have to lose your home or a big slice of its built-up equity to get out of a debt jam. At worst an orderly sale of this precious asset may leave you a renter again, but at least you'll take away the stored-up cash you've accumulated in your house through rising home values or years of payments.

In today's real estate market even a few years of ownership may have produced tens of thousands of dollars of increased value over what you owe on the house. That money is yours, and it can help get you back on your feet or secure your future. Don't part with it without closely examining **all** your options first!

a. Some major DON'Ts for homeowners in trouble

- Don't panic. Get full information on the foreclosure process in your state and especially how much time you have to resolve your problems short of losing your home. Make sure you understand all deadlines for responding to court documents, documents from lenders and other important papers. Be especially sure that you know the point at which you can lose the legal right to own your home.

- Never sign a contract under pressure. Take your time to review the paperwork thoroughly, preferably with a lawyer representing your interests only.
- Don't sign away ownership of your property (often referred to as a "quit claim deed") to anyone without advice from your lawyer. Be especially suspicious of offers to take over ownership of your home as part of a deal that will allow you to lease it then buy it back after two or three years' time; Experience shows that the buy-back is often extremely expensive or otherwise out of reach, so in reality you either never get your home back or, if you do, you've paid an outrageous amount to recover it.
- Don't pay your mortgage payments to someone other than your lender even if he/she promises to pass them on to the mortgage company. And if you find you can't pay your mortgage don't ignore warning letters from your bank or mortgage lender. Call your lender or a lawyer for help.
- Beware of any home sale contract where you aren't formally released from liability for your mortgage. Also, make sure you know what rights you're giving up and that you agree to giving them up.
- Never make a verbal agreement. Get all promises in writing and get full copies.
- Don't sign anything with blank lines or spaces. Information could be added later that you didn't agree to.
- Don't fall for promises like these, often used to lure homeowners into deals that will cost them far, far more than they'll "save."
 - "We'll save your credit"
 - "We'll pay the closing costs"
 - "We'll pay your first two months' rent or payments in your new place"
 - "You'll get several thousand dollars in cash back that you can use any way you want."
 - "If you sign the house over to us the foreclosure will be recorded against us, not you."
 - "We'll buy your house 'as is'"
 - "We guarantee we'll find you a buyer in seven (or 14) days" (but at what price?)
 - "We'll get you a new mortgage with low monthly payments" (without telling you how much is borrowed or how many years' worth of payments.)
 - "We'll help you file bankruptcy to stop this foreclosure" (bankruptcy only buys time to fix your finances but doesn't stop a foreclosure; if you go this route make sure the person offering help – preferably a reputable bankruptcy attorney -- really knows what he or she is doing.)
 - "It may cost you thousands more if your property is sold at public auction"
 - "We'll give you \$40.00 in Free Gas"
- If you're not English-speaking use your own translator; do not depend on the "rescue" firm's translator or anyone else's.

IV. One Response That May Be a Useful Model

In Denver, District Attorney Mitchell Morrissey's office has received U.S. Department of Justice funding for a community-based consumer protection program that could model one way of combating these scams.

The faith-based Clergy Against Senior Exploitation (CASE) Partnership has 400 church-based partners in Greater Denver, says Lisa Curtis of the DA's office. The program aims to alert senior citizens to consumer scams aimed at them, and has a rapid-alert mechanism that can quickly reach communities when scams arise. One of its uses in Denver has been to tip off seniors to the rise in foreclosure "rescue" scams.

The CASE partnership gets the word out in several ways:

- Via monthly "Fraud Alerts" faxed or e-mailed to partners in faith communities. These alerts are quickly incorporated as announcements at that week's religious services.
- The DA's office sponsors training seminars aimed at teaching 300 clergy members and lay leaders about prevalent types of financial exploitation of older adults, plus prevention strategies.
- Fraud Prevention Seminars for older adults are also co-sponsored by the DA's Office and the faith communities.
- The program provides a Community Advocate service, which encourages detection and reporting of financial crimes against seniors to the DA's Economic Crimes Unit and also provides victim support.

APPENDIX A: EXHIBITS

"I SAW THAT THERE WAS A SEAL. IT LOOKED LIKE A GOVERNMENT SEAL. AND WE THOUGHT THEY'D HELP US."

Californians Caraline and Jeffrey Kincheloe got this postcard from Housing Assistance Services when they were threatened with foreclosure. The official-looking eagle seal (see blow-up) says "United States Homeowners Protection Agency" and lists a Washington address near the White House. Right after signing up with HAS the Kincheloes worked out their own problems and told HAS they had, but the firm nevertheless dunned them for a raft of fees. "I thought: We're educated people. This shouldn't be happening," says Caraline. "But you can't always keep up with these folks. I felt like there were sharks everywhere. You're prey and they're predators."

(800) 846-1948 #1050.00

USHPA is a non profit organization that exists to inform you of your rights. They have published a booklet which you can have sent to you free of charge by calling us at Housing Assistance Services, a loss mitigation firm which helps homeowners enter into repayment plans with their lender.

You can stop the foreclosure and have your past due payments either:

1. put into the balance of the loan (without refinancing)
2. paid back through a special forbearance (repayment) plan
3. put at the end of your loan.


Call the 24 hour automated hotline for information on how to enter a repayment plan and stop your sale without filing bankruptcy.

2020 Pennsylvania Ave., #960
Washington DC 20006
Call the 24 hour automated hotline 1-800-284-2690

Conf. # 846312
Jeffrey A Kincheloe
16202 Lost Canyon Rd
Santa Clarita, CA 91361

9/12/02
talked to Jeremy will send paperwork to us to sign by fax


1360/9999

 "to provide information and education to homeowners on their rights..."

You are entitled to certain rights that your lender may not have informed you of which could help you save your home. Bankruptcy should be a last alternative because over 75% of those who file it fail within the first year. You have the ability to stop your foreclosure and start making your regular monthly payments again, paying the back mortgage payments either at the end of the loan or in a special repayment plan.

These rights can be exercised even if your mortgage company has denied payment arrangements or has told you that they will only accept payment of your back mortgage payments in full.

Contact the 24 hour automated information hotline immediately at 1-800-284-2690 for free information and counseling on options for saving your home without bankruptcy. Please call immediately - your sale date is pending and you may be losing some of your options by waiting.

 METER 711772

2020 Pennsylvania Ave., #960
Washington DC 20006
Call the 24 hour automated hotline 1-800-284-2690

“PLEASE CALL ASAP ABOUT THE ENCLOSED CHECK!”

This pitch was sent to a Virginia couple facing foreclosure by Richmond Investment Group, L.L.C. It contains a \$1,000 check made out to the couple (but not signed) and a letter stating, among other things: “Time is your worst enemy!” and “You can STOP your foreclosure in less than a week by selling your house for cash.” Such entreaties gloss over vital questions such as how much cash is being offered for this fast sale and how much time a homeowner has to resolve a foreclosure threat. Advice such as, “Don’t call any real estate agent until you read this” and, of course, that tantalizing check should also be treated with extreme caution.

WE BUY HOUSES

Warning:
Don't call any real estate agent,
until you read this!

Learn how Richmond Investment Group, L.L.C. can buy your house quickly. Our free report gives you solutions to almost every situation you could face. Don't sell your house without reading this valuable report.

Contact us now to receive your free report...
(804) 346-0882
anyhouseanywhere@comcast.net

Dear Seller:
Do you own a house and need to sell quickly?

- Probate? • Foreclosure?
- Transferred? • No Equity?
- Divorce? • Vacant?

We specialize in finding creative solutions to real estate problems others won't touch. We buy houses from people in situations just like yours in any condition and price range. We can close quickly and will handle all the paperwork.

We don't know how long you've been trying to sell your house, but every month you wait is costing you unnecessary expenses... Your house is an asset... Sell it as an asset. Don't let it become a liability or a burden.
Contact us now to find out how we can help.

Richmond Investment Group, L.L.C.
P.O. Box 5009
Glen Allen, VA 23058-5009

Fax (804) 346-0882
anyhouseanywhere@comcast.net
www.AnyHouseAnywhere.com

Greg - Call (804) 317-9186 Brian - Call (804) 317-9185

WE BUY
HOUSES

Weichert Bank National Assoc.
Richmond, VA 2942

DATE 5/22/2005

\$ 1,000.00

DOLLARS

VOID AFTER 21 DAYS

MEMO Call Today!

⑈002942⑈ ⑆407200030⑆ ⑆2000008626249⑈

If you do nothing, hoping for a miracle, your house will be sold at Public Auction, for up to 25% to 50% below value. Don't allow this to happen! It's a money solution that will allow you to rebuild your future but you must act now. Time is your worst enemy; don't be embarrassed or humiliated by a lender who cares nothing about your situation.

We want to provide you a helping hand by supplying knowledge, cash, and our ability to keep creditors from annoying you!

What we will do when you call (804) 747-6767:

- Brian Rhodes will answer the phone and ask you several questions about your home to evaluate your property.
- We will set up a time to visit your home and decide with you the best course of action to help you out of your situation as quickly as possible.
- We will communicate with your lender. They will deal directly with us - we have the cash to handle past due payments.

This can be done in one visit, but you must call us to begin this communication process. Ask for Brian Rhodes at (804) 747-6767 day or night. If we are out, leave us a message. You can walk away free and clear for a fresh start.

Make this a turning point in your life. Just reach for the phone and dial (804) 747-6767. Ask for Brian Rhodes. We can help!

Warmly,

Brian Rhodes

P.S. Please call ASAP about the enclosed check!
(804) 747-6767

A BUNDLE OF TACTICS CONSUMERS SHOULD VIEW WARILY

This Florida flyer sent to an African-American homeowner employs a veritable checklist of tactics consumers should view with extreme suspicion. For starters, many who teach foreclosure "rescue" methods stress the importance of handwritten communications for cultivating familiarity, and this flyer is covered with handwritten entreaties. It also urges the homeowner to ignore her own mortgage company ("Don't listen to mort. company or their attorney they don't care about you") and nakedly appeals to racial solidarity ("We tell you what they won't....They can't stand to see young brothers doing what they do.")

305 652 2614

3 05652 0094

LANDROVER LENDING GROUP LLC.

305 - 909-4000

FORECLOSURE CASE NUMBER 03-25052-32, WAS RECORDED ON 10/29/03

AT THE STATE CIVIL CIRCUIT COURT OF FLORIDA. YOUR PROPERTY WILL BE SOLD 30-90 DAYS. PLUS ATTORNEY FEES ADDED EVERYDAY. YOU CAN STOP ALL FORECLOSURE STRESS TODAY. WE WILL LEND YOU THE MONEY FOR THE FORECLOSURE PLUS PAYOFF OLD MORTGAGE COMPANY.

URGENT ATT: JUANITA LEBARON

FREE ADVICE
HONEST HELP

NO STRINGS ATTACHED

YOU WILL BE GLAD YOU CALLED

- *REINSTATE
- *PAYOFF MORTGAGE LOANS CASH
- *LOAN MONEY FOR FORECLOSURE
- *PERSONAL LOANS
- *REFINANCE
- *SHORT PAY

EXTREMELY LOW INTEREST RATE

CONTACT 1ST MR. COURTNEY (305) 303-6486

Williams call ph 754 214-5034 CALL NOW FOR FREE CONSULTATION

YOU WILL EVEN BE COMPENSATED IN THIS DELIMA

FORECLOSURE DOCTOR MR. WILLIAMS 754-214-5034 3597 786-2903

cannot receive messages at this time 5:45 p Tue

HONEST

DON'T COST TO LISTEN & LEARN
DON'T LISTEN TO MORT. COMPANY OR THEIR ATTORNEY
THEY DON'T CARE ABOUT YOU OR YOUR SITUATION TRUST ME
WE TELL YOU WHAT THEY WANT & HELP YOU. THEY CAN'T STAND TO SEE YOUNG BROTHERS DOING WHAT THEY DO.

"ALL CALLS THE CLIENTS COULD HAVE MADE THEMSELVES"

This contract from Michigan's Advanced Mediation Services makes clear why two legal services agencies asked that state's attorney general to investigate the firm. As with contracts NCLC advocates have seen elsewhere this one is short on concrete promises of help and explicitly states that "no....outcome guarantee is made or implied." What Advanced Mediation's tactics amount to, the agencies' letter to the attorney general states, is that the firm "charges people an exorbitant amount of money for a couple of futile phone calls to their mortgage company or referral to a bankruptcy attorney -- all phone calls the clients could have made themselves." The contract does stipulate that Advanced Mediation's \$700 fee must be paid up front, however.

ADVANCED MEDIATION SERVICES INC
FORECLOSURE MEDIATION SERVICE CREDIT COUNSELING AGREEMENT

This agreement is entered into this 12 day of Aug, 2004 and is by and between Advanced Mediation Services Inc (hereinafter referred to as Foreclosure Mediators) and [REDACTED] (hereinafter referred to as Clients.)

WHEREAS, Foreclosure Mediators provides services to help homeowners stop foreclosure;

WHEREAS, Client(s) is committed to save their home and are willing to make sacrifices as required and do whatever is necessary to save their home; and

WHEREAS, Client(s) wish to engage the services of Foreclosure Mediators for a fee;

NOW THEREFORE, for good and valuable consideration, the parties hereto mutually covenant and agree as follows:

NOTICE: NO LEGAL ADVICE CAN AND WILL BE PROVIDED UNDER THIS AGREEMENT

- Foreclosure Mediators shall begin its services promptly upon receipt and acceptance of this signed agreement and payment of the required fee. Foreclosure Mediators agrees to use its experience, contacts, and best efforts to assist in stopping foreclosure or preventing foreclosure of Client(s) home/real estate.
- Client(s) agrees to cooperate fully with Foreclosure Mediators by providing Foreclosure Mediators with truthful information as requested, by signing all documents required by Client(s) Mortgage holder once (if any) an agreement to stop foreclosure is reached, and by following all of Foreclosure Mediators oral or written instruction.
- Client(s) understands that no forbearance, loan, or other outcome guarantee is made or implied. And that Foreclosure Mediators is relying exclusively on the truth and accuracy of Client(s) commitment as stated herein and of information provided by the Client(s) at the time of interview and signing of this agreement. Client(s) hereby acknowledge that such information is true and correct.

Client(s) hereby contract with Foreclosure Mediators to:

- A. Contact present Mortgage Company on their behalf to stop foreclosure.
- B. Contact any attorney involved in a foreclosure proceeding against them.
- C. Assist/Attempt to obtain forbearance to stop foreclosure.
- D. Negotiate terms of a settlement
- E. Review Client(s) financial picture to develop whatever plan and options deemed necessary by Foreclosure Mediators to stop foreclosure and save Client(s) home.
- F. Credit Counseling

5. Client(s) shall pay a service fee and phone/fax charges of \$ 700 w/10 immediately.

6. Foreclosure Mediators agrees to make best efforts in performance of its services. And, Client(s) agrees to indemnify Foreclosure Mediators/Agents and to hold Foreclosure Mediators/Agents free and harmless from any and all claims.

7. This written agreement exclusively represents the full and complete agreement between the parties. Any changes or additions thereto must be in writing and signed by all parties.

AGREED: (MUST BE SIGNED BY ALL OWNERS)

ACCEPTED without prejudice:
AGENT [Signature]

ADVANCED MEDIATION SERVICES INC
314 W. Wackerly Suite A
Midland, MI 48640
1-877-631-8408

Paid in full

RECEIPT OF FUNDS RECEIVED, THIS TO ACKNOWLEDGE RECEIPT OF
\$700 RECEIVED THIS 12 DAY OF Aug, 2004.

PROMISES OF MILLIONS – BUT FOR WHO?

Ads like these for "get rich in real estate" seminars (this page and next) are staples of newspapers, radio, TV and the Internet these days, and seeking out homes in or near foreclosure is a staple of many seminars' methods. Sales of such programs can be quite lucrative for the vendors, if not those buying. "World famous real estate investor" Robert G. Allen is one of the better-known gurus partly because he has extensively promoted his own seminars here and abroad. But John Reed, a California critic who has researched dozens of real estate gurus, says that "Allen's advice is generally terrible....his (no money)-down techniques almost all require you to mislead an institutional lender or take advantage of an unsophisticated seller or both." The website for AIN, the American Investors Network (next page), says little save that AIN's "goal is to create 1000 new Real Estate Millionaires each year" and that its founders "are 2 of the most powerful, life changing, trainers in the business."

World-famous real estate investor and author reveals secrets of buying homes with no money down

Robert Allen's legendary workshop reveals how to change your financial future in 90 days or less




Years ago, when I invented the now world-famous "No Money Down" real estate system, people thought it simply couldn't be done... Buying real estate without investing a dime of your own money! But, I have proven it can be done, year after year, in all kinds of housing markets. Perhaps you've seen me on TV — or perhaps you've read one of my best-selling books.

I've shown tens of thousands that just about anyone can make a fortune in real estate. But I have to tell you, in all my years of showing people how to create wealth through real estate, I believe it's never been as easy as it is today. Plus, I believe you can make more money now in real estate than ever before. And you can do it quicker.

With low interest rates and soaring appreciation, now is the time that you could become my next real estate millionaire — perhaps even a multimillionaire. Even if you're stone cold broke right now, you can still become richer than most Americans will ever be. The profit floodgates have truly opened for so many of my students. I believe you too can take advantage of all the lasting wealth that real estate can provide. And I'd like to tell you how in my updated workshop, *Creating Wealth with Real Estate*.

SAN FRANCISCO

Challenge #1: Find fast wealth in any city, town, or neighborhood

When I first developed my revolutionary system for buying real estate, I very publicly challenged the media to... Send me to any city in America. Take away my wallet, give me \$100 for living expenses. In 72 hours, I'll buy an excellent piece of property, using only my own money... keep in mind, I would have no cash to invest. No connections. No insider knowledge of the real estate market where I was going. But I would have my new system for buying real estate. And that meant none of the above mattered. I didn't buy just one property, I bought four!

The *Los Angeles Times* took me up on my gutsy challenge. In just 72 hours, I had taken \$100 to over one million. In fact, my big mouth could make you a millionaire. That's because I've challenged myself to create millionaires all across America. Yup, I went right for the "M" word: millionaire. Raised a few eyebrows with that one. But remember, you don't need money in the bank to buy real estate. You don't even need good credit. All you need is my *Creating Wealth with Real Estate* system and the personal gumption to go out and apply it.

ST. LOUIS

Challenge #2: Take someone from unemployed to over \$100,000 in equity

No better example of "ANYBODY CAN DO THIS" exists than when I made another small audio challenge. As you might be able to guess, I'm usually about telling others how my system works. So I decided to challenge to any unemployed person in America. Let me tell you, that's a tough one to pull off. In two days' time, I issued my strategies for *Creating Wealth*. In 90 days, that person will be back on higher fees with \$5,000 in the bank. It was in St. Louis, Missouri, where I pulled a couple out of the unemployment line and placed them on the path to wealth. Within 90 days, these brothers earned more than \$2,000 a day. But that was just the beginning. Within the next 12 months, they garnered more than \$100,000. It changed their lives forever. Think of how an extra \$100,000 or more could change your life and improve your family's future. What if I showed you just one that \$100,000 could mean?

NEW YORK

Challenge #3: Prove anyone can do it

I've become famous as America's leading expert on purchasing real estate with no money down. I've been interviewed in newspapers and on radio and TV. In fact, Regis Philbin challenged me on the spot to prove my system worked for anyone. I selected a young woman right out of Regis' studio audience and guided this first-time investor to earning more than \$40,000 in 90 days. And now, I'd like to put you out of your chair and invite you to observe with my powerful and internationally acclaimed *Creating Wealth with Real Estate* program has been so highly rewarding for people across the country — and why it can also be your path to substantial wealth.

Now it's your turn to succeed. Can you become a millionaire? Dozens of my students have. At the free preview of my workshop, you'll see real-life examples of how my powerful wealth creation strategies have helped people move into exciting new markets.

Challenge #4: Make you my next millionaire! STARTS NOW!

I've proved time and again that my system can work just about anywhere, anytime, and for just about anyone — even people who are flat broke. Now, I'd like to prove it can work for you.

In fact, my big mouth could make you a millionaire. That's because I've challenged myself to create millionaires all across America. Yup, I went right for the "M" word: millionaire. Raised a few eyebrows with that one. But remember, you don't need money in the bank to buy real estate. You don't even need good credit. All you need is my *Creating Wealth with Real Estate* system and the personal gumption to go out and apply it.

Now it's your turn to take a step toward real wealth. The wealth is out there. I will show you how it's possible to find it and grab it. Take a life-changing step toward financial independence for yourself and your family today. The road (it's more of a superhighway actually) to millionaire status begins right here. Right now, I'm hoping to create at least 1,000 millionaires. And I'd like to count you among them. There's no telling when my FREE workshop will be back in your area, because it's simply impossible for me to bring my famous workshop to every city. Grab this unique opportunity to discover hidden wealth opportunities in real estate.

Bring someone you care about. If you have a friend or family member who wants to increase their wealth, bring them to this FREE empowering event. I believe there's never been a better time to invest in real estate. Forecasts call for soaring demand for homes and rising prices. At this free event, you'll see how it's possible to ride this historic trend to personal riches.

True Stories. True Success.

"Right now, I have a positive cash flow of \$2,800 on one property."
— Richard Douglas, New Jersey

"We didn't take anything out of our pocket, and we bought a \$250,000 property that gives us a \$900 monthly cash flow."
— Guy Burns, Nevada

"I bought two pieces of property and made \$25,000 in 90 days. It's so easy to do this stuff. It's amazing."
— Gary Harris, Missouri

"These are proven methods — they work. You can make \$25,000 to \$25,000 in a matter of 60 days or less."
— Preston Fleming, Illinois

"I just sold my first project, my net profit after all costs was \$65,000. I received the check on my 40th birthday."
— Henning Van Deusen-Jensen, California

"Today has been the best day of our real estate careers. We sold our fourth house. This will put our net worth around \$1,000,000."
— John (Chuck) Neuschaefer, Georgia

You will discover it's possible to:

- Buy prime real estate without a penny of your own money
- Acquire properties at below market value and put the difference in your pocket
- Profit in unexpected ways from some of the lowest mortgage rates in decades
- Generate immediate cash flow
- Turn your retirement account back into the comfy nest egg it's supposed to be
- Locate hugely lucrative properties nobody else knows about
- Find fantastic foreclosure properties before they ever hit the courthouse steps
- Build substantial monthly income

Just Released!

Robert G. Allen

Nothing Down 2000s

Here's how you can succeed!

Creating Wealth with Real Estate

3 DAYS ONLY • FREE EVENT • EVERYONE WELCOME

Arrive early to ensure best seats. No reservations required.

<p>Monday, April 18, 2005</p> <p>1:00 p.m. or 7:00 p.m.</p> <p>Woburn</p> <p>Radisson</p> <p>15 Middlesex Canal Park Road Woburn</p>	<p>Tuesday, April 19, 2005</p> <p>1:00 p.m. or 7:00 p.m.</p> <p>Billerica</p> <p>Wyndham</p> <p>270 Concord Road Billerica</p>	<p>Wednesday, April 20, 2005</p> <p>9:00 a.m. or 1:00 p.m.</p> <p>Braintree</p> <p>Sheraton</p> <p>37 Forbes Road Braintree</p>
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RAIN/REFUND Box WR 18

Robert Allen Institute (RAI) is a training institute and individual performance depends upon the individual skills, time availability, and dedication of each student in the training program. Testimonials included may not represent typical results. Unique circumstances and/or performance do not guarantee future results. RAI, its owners, employees, and affiliates do not give investment or financial advice and are not licensed as brokers or registered as investment advisors with any state or federal agency. RAI encourages consultation with a licensed representative regarding any particular investment or the use of any investment strategy.

THURSDAY, APRIL 14, 2005 BOSTON HERALD

60

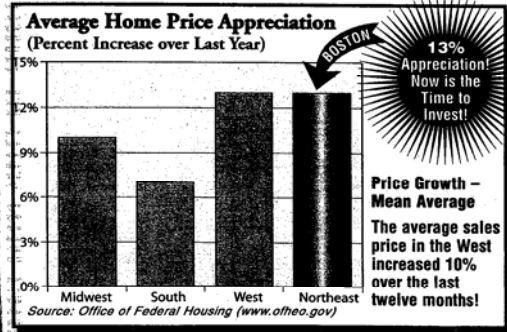
WEDNESDAY, APRIL 13, 2005
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THE BOSTON GLOBE
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A13
ADVERTISEMENT

Get Rich Buying and Selling Homes!

- Learn How FREE!



Our FREE Real Estate Workshop Will Teach You:

- ✓ Never again work for anyone else
- ✓ Access Millions to get their business started
- ✓ Make quick cash today and cash flow for tomorrow
- ✓ Create a lifetime of income in a short time
- ✓ Close on deals each day with thousands in profits
- ✓ Multiply their net worth 10 times in one year
- ✓ Retire, happy, wealthy and free of debt
- ✓ Become a Pro by learning from the Pros

What is American Investors Network?

What is AIN? AIN is the industry leader in training and education. We are the experts when it comes to preparing you for success in the Real Estate Industry.

AIN is helping people all over America join the Real Estate Industry to make more money than they ever thought possible.

AIN, a leader in the Real Estate Industry, is setting the pace for individual growth and prosperity. We standardize and structure the industry so even the most inexperienced "would-be entrepreneurs" can become part of the Real Estate Industry and enjoy the powerful profits which it yields for so many AIN members.

As the only member organization in the Real Estate Industry, AIN trains and supports all its

members to reap the benefits and the profits in Real Estate. In addition to training and support, AIN keeps a watchful eye on legislative issues, industry studies and all other pertinent issues which affect the growth of Real Estate. AIN registers its members as Real Estate Professionals, promotes industry awareness, develops and teaches industry curriculum, certifies and endorses professional development programs, conducts research studies and is a major force behind shaping the Real Estate Industry.

AIN is recognized throughout the industry. AIN's professional designation and commonly recognized logo are signs of credibility that signify one's association with the industry leaders. Take the first step and enter the Real Estate Industry today!

LET AMERICAN INVESTORS NETWORK HELP YOU ACHIEVE YOUR DREAMS:

- AIN is helping scores of people nationwide make their dreams come true through the Real Estate Industry.
- AIN is THE recognized industry leader, establishing standards and systems that you won't find anywhere else.
- AIN makes every aspect of real estate understandable, giving you confidence to make deals like pros!

FREE Real Estate Investment Toolkit

- Investment Calculator
- Amortization Calculator
- Loan Calculator
- 4 Special Reports
- BONUS! Money Saving Workbook



FREE DIGITAL CAMERA

Just for Attending the American Investors Network Seminar.

- Digital Camera Valued at \$80
- Take photos of properties
- Warranty and Customer Support

The digital camera is for pre-registered guests only so CALL NOW!



*Digital Camera, shipping and handling may be required to pay. The camera will be made available to everyone (while supplies last) and you must arrive before the start of the workshop and stay through completion.

Read What People are Saying About Our Seminar

"A deal just fell into my lap, and I made \$5000."
- Jeff Houston

"In just over a month, I did four Real Estate deals that will produce somewhere between \$500 and \$10,000 per month for the next three years." - Leigh Burbridge

"In one day I signed and sealed two transactions, one making me \$1600 and the other putting \$6000 in my pocket. This Real Estate business is so great it makes us want more." - Rob Rayford

"After attending the Real Estate training I was able to close a \$750,000 deal with nearly nothing down. The best part is, this deal brings me big bucks month after month. Real Estate Deals mean cash flow."
- Paul Roberts

And YOU can be successful too!

Call 1-800-530-3274 Today!

to reserve your seat at this FREE two-hour seminar.

ATTENTION: COMING TO YOUR AREA SOON! CALL 1-800-530-3274 TODAY!

BEDFORD
Tuesday, April 26
12:30 pm or 7 pm
Renaissance Boston Bedford Hotel
44 Middlesex Turnpike

BOSTON
Wednesday, April 27
12:30 pm or 7 pm
Hilton Boston Back Bay
40 Dalton Street

NEWTON
Thursday, April 28
12:30 pm or 7 pm
Sheraton Newton Hotel
320 Washington Street

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\$10,000 A MONTH, GRAMMAR CHECK NOT INCLUDED

This Minnesota mailer from The Beutler Group, similar to those sent to NCLC from several states, offers "the REAL WORLD TRUTH about real estate" to those attending Bob Beutler's free seminar. This one might carry a bit more authority if it didn't contain so many spelling and grammatical errors (circled.) Beutler's website states that he provides free information in order to attract paying real estate clients – but that's what any real estate agent does. And the website section on "Distress Sales/Bank Foreclosures" states, "It's not easy for the average homeowner to find these deals, because you have to keep scouring the paper to see when one comes up." Beutler will, in effect, do that for you, but it seems a stretch to then claim: "This insider information... will give you a huge advantage over other buyers in the marketplace."

Learn the inside secrets (from the pros) about investing in Real Estate in the Twin Cities and make \$10,000 a month, guaranteed FOREVER!

You can do! It is the American dream and people every day are seeing the light. Are you sick and tired of working for a big corporation where you are just a number and the next thing you know your job is outsourced. There's more. Things are changing and the implied promises are not as guaranteed as they use to be. You need to take control and the only way to do that is with INFORMATION.

FREE Real Estate Investment Seminar

If you like a lot of people and you doing your taxes now and looking at your retirement accounts and wondering how or what you going to do, because as you run the numbers it becomes apparent that there is no way you going to be able to live the retirement dream that you want. While here is the answer. It is REAL ESTATE. *Andrew Carnegie said it over 100 years ago and it still holds true today. More millionaires have been made by real estate than any other investment.*

Is your current retirement planning working?

But you're wondering how you can DO IT. That's what I'm here for. I'm Bob Beutler and I offer something that NO other agent or seminar trainer offers. I give you the REAL WORLD TRUTH about real estate. NO sales hype, no books to buy, no big dollars schools or CD course, Just the truth and it's FREE

Want to find out how to retire early?

I know you wondering why it would be FREE. That's easy! Either you interest, want more information, or not interested and either one is just fine. But don't take it from me hear what my clients have said. "Bob, Your seminar was the best one I have ever been too. You laid it all out on the table. The good, the bad the ugly and showed us with Proof how it works and what mistakes not to make. We didn't have any upfront fees or hard selling just FREE INFORMATION.

PS. We had fun too, and you were Minnesota specific. Thanks". David.

PS. Thanks for your professional skill at saving us over 20K on the purchase of our first property. I wish we had met you 10 years ago, we would be on vacation now. This is just one persons response. I have hundreds of clients that we have helped and yes I can proudly say that I have helped make more people finically independent then any other agent in my market place. You see lots of agent say they are an investment real estate expert but they are not. They just put it on there business card and send a check for \$50 to the printer and walaa instant expert.

Do you want to start a plan in motion so that you can stay home with your kids?

Here is how you can tell if they know what they are doing. Remember it is Your Money and You Deserve to keep it. Ask them how much real estate they own and how many rental properties they have SOLD. Oops one last thing. You want to talk to there last 3 clients. If they can not do that, do your self a huge favor and RUN AWAY. These agents are more concerned with making a commission then leaving you with the result. Trust me I know. These agents X-clients all call me for HELP after the damage was done and Yes we help them and get them on the path to success.

Learn how to pay less in INCOME TAXES and pay yourself first!

You owe it to yourself to just come and visit us. Please bring your spouse and we recommend your college aged children (learn how to pay for their college today). The sooner you start the better off you will be.

Do you need money for your kid's college?

But BOB what are you going to do differently then any other agent? People ask me that all the time and here is my quick answer. First I do what I preach. I own real estate. Lots of it. I also provide what no other agent does. You get PRIORITY access to ALL the properties (many of them not on MLS or the internet), You get put in our custom Property Home Hunter program where you will see properties before most real estate agents even know that they are for sale, plus you get to see all the Pre-Foreclosures and Bank Repo's (we have the contacts on these properties and know who to contact) PLUS you get access to all my contacts, my contracts, my paperwork, my management systems plus I have the CPA's, Attorneys, Home inspectors and THE BEST LENDERS and Their PROGRAMS. Did you know that you could by a rental property with interest rates as low at 1.25%. It's true. That's why you owe it to yourself and your family to come to our free seminar. Be armed to ask questions and learn from the pros. Thanks for your time, BOB.

Check out our web site and see. www.CallBob.Net

Ps. WE will show you how to buy mint condition properties in Good neighborhoods and not have to deal with the tenant nightmare. Did you know you can kick a bad tenant out in as little at 14 days?

Ps. We also offer a GURANTEE that no other agent can match. We will pay you up to \$10,000 if we don't save at least that on the property you want to purchase.

Ps. Did you also know that you can use your IRA and 401K to buy real estate? How would you like to have a 45% return on your investment and have someone else pay for it? Oops that's one of the secrets we teach you at the seminar.

Then you will love our FREE Investment seminar! If you're ready just call or email us and we will reserve you a seat

Learn what you need to know about the current market. No gimmicks! Minnesota specific. Leave your checkbooks at home! Also learn about some of the creative financing options available.

February 23rd, 7:00 PM for New Investors
Located at the Green Mill in Plymouth off 494 & 55

Presented by Bob Beutler of The Beutler Group –
Wealth Builder Thru Real Estate.
Call 612-409-4059 to reserve seats

Free of charge as a service to our clients
PLEASE NOTE! WE WILL HAVE A SPECIAL BREAK OUT
SESSION for EXPERIENCED INVESTORS FROM 8-9PM



APPENDIX B: OVERVIEW OF EXISTING STATE LAWS³⁶

³⁶ These laws can be found at: Cal. Civ. Code §§ 2945.0-.11 (foreclosure consultant); Cal. Civ. Code §§ 1695.0-.17 (home equity purchaser); Ga. Code Ann. § 10-1-393(b)(20)(A); Md. Real Prop. Code Ann. § 7-105(A-1); Md. Real Prop. Code Ann. §§ 7-301-321; Minn. Stat. Ann. §§ 325N.01-.18; Mo. Ann. Stat. §§ 407.935 - .943.

I. Types of Activities Covered

The state laws targeting these foreclosure specialists cover one or more of the three types of actors: foreclosure consultants, foreclosure or equity property purchasers, and foreclosure or equity surplus purchasers. A foreclosure consultant is one who claims s/he will stop, delay, annul, or postpone a foreclosure sale, obtain a forbearance or reinstatement, or arrange these activities. The foreclosure property purchaser is one who purchases the property and permits the homeowner to remain in the property via a lease and/or option to repurchase. The foreclosure equity purchaser is someone who obtains an assignment of the surplus (homeowner's equity) resulting from the foreclosure sale. **California** and **Maryland** regulate all three. **Minnesota** regulates the foreclosure consultants and property purchasers. **Georgia** regulates only the property purchasers while **Missouri's** law addresses the foreclosure consultants.

II. Scope of the Laws

The most extensive of these state laws (**CA, MD, MN**) begin by providing expansive definitions of the type of foreclosure entity to be covered. However, several exceptions – those for attorneys, accountants, real estate licensees, consumer finance lenders, mortgage brokers, and others – diminish the statutes' protections considerably. Attorneys and real estate and mortgage brokers are likely to be involved in the transaction. **Maryland** also exempts banks, title insurers, and non-profit organizations.

III. Notice and Cancellation Rights

All of these laws mandate that certain information be in a contract and provide cancellation periods, ranging from 3 days (**MN, CA, MO**) to at any time (**MD**) for foreclosure consultants; from 3 days (**MD**), 5 days (**MN, CA**), 10 days (**GA**) for foreclosure purchasers; from 3 days (**CA**) to 10 days (**MD**) for surplus purchasers. Only California extends the right to cancel to two years if the transaction is unconscionable, except as to a bona fide purchaser.

Collectively, these laws require the notice of cancellation be in bigger or bolder print, be detachable from the documents so the consumer can use it, and be given to the consumer immediately. None require that a copy of all documents be given to each owner of record, however. **Maryland** requires the homeowner to repay any funds paid or advanced by the foreclosure consultant, foreclosure purchaser, or surplus purchaser within 60 days of cancellation plus 8% interest per annum, though the right to cancel cannot be conditioned on the payment of this money. **Minnesota, Missouri, and California** do not require a tender. **California** specifically prohibits performance during the cancellation periods. **Georgia** mandates tender by the homeowner of all monies paid to him or her within 30 days of cancellation and is silent on whether the cancellation can be conditioned upon payment.

IV. Substantive Protections

Minnesota caps any fee, interest, or other compensation that the foreclosure consultant can charge to 8% per annum and prohibits the taking of wage assignments or other security. The consultant cannot get paid until all services are performed.³⁷ For foreclosure purchasers, Minnesota permits the purchaser to keep up to 18% of the fair market value of the property if title to the property is not conveyed back to the original homeowner and the payment must be made within 150 days of either the eviction or voluntary relinquishment of possession by the foreclosed homeowner. The purchaser cannot enter into an agreement with the homeowner unless the homeowner has a reasonable ability to repay for the subsequent conveyance of the property back to him or her. There is a rebuttable presumption that the homeowner has the ability to repay if homeowner's primary housing expenses and "regular" principal and interest payments on other personal debt on a monthly basis do not exceed 60% of the homeowner's monthly gross income. Minnesota also requires compliance with the federal Home Ownership and Equity Protection Act (HOEPA) for any foreclosure reconveyance in which the foreclosed homeowner obtains a vendee interest in a contract for deed.

The **California** provisions apply when an owner is in default (in contrast to the Maryland and Minnesota laws which apply when there has been a notice of foreclosure published or served). California prohibits unconscionability in the foreclosure purchase transactions and permits the voiding of the contracts for up to 2 years from recordation of the conveyance. California does not cap fees or interest, however. Regarding foreclosure consultants, California caps all fees and interest to 10% per annum on any amount advanced by the consultant and prohibits the taking of a wage assignment or other security. The law also contains prohibitions similar to Minnesota's law listed in footnote 3. California also prohibits a foreclosure surplus purchaser from assisting an owner before 65 days have elapsed from the time the sale is confirmed.

Maryland caps the interest on any loan the foreclosure consultant may make to the homeowner at 8%. There are no caps on fees for services rendered. Wage assignments or other security are prohibited. Consultants cannot get paid until all services are performed. Regarding foreclosure purchasers, Maryland permits fees or charges up to 18% of the net proceeds from any resale of the property when sold within 18 months after entering into the agreement. The homeowner must have a reasonable ability to pay for the subsequent reconveyance back to the homeowner within the time called for in the agreement. HOEPA applies to agreements in which the homeowner obtains a vendee interest in a contract for deed. There is no cap on fees in the surplus purchaser context.

Georgia's law only applies to foreclosure purchasers. It prohibits certain misrepresentations. Otherwise, the statute addresses what has to be in the contract and the notice of cancellation.

³⁷ Other prohibitions include: receiving consideration from a third party in connection with services rendered to the owner unless it's fully disclosed to the owner; acquiring any interest, directly or indirectly, or by means of a subsidiary or affiliate, in a residence in foreclosure from an owner with whom the consultant has contracted; inducing/attempting to induce any owner to enter into a contract which does not comply with subsections governing rescission and contract terms; taking a power of attorney for any purpose other than to inspect documents.

Missouri's law only applies to foreclosure consultants. It caps fees and interest at 10% per annum on any loan the consultant may make to the owner. It also contains the prohibitions listed in footnote 38.

V. Remedies

All of these states permit cancellation of the contracts within varying time periods, as noted above. There is no extended right to cancel, except in **California** for up to two years if the transaction is unconscionable.

Regarding foreclosure purchasers, **California** allows for the voiding of the contract for certain violations (unconscionability and responsibility of the purchaser for the acts of the representative). In addition, the homeowner may be awarded actual damages plus attorney's fees for most violations (though not for the content or delivery of the cancellation notice), exemplary damages of not less than 3 times the actual damages or a civil penalty of up to \$2,500, and equitable relief. Violations are also a misdemeanor with a penalty of up to one year and/or fine of up to \$25,000. Regarding foreclosure consultants, all violations trigger actual damages, attorney fees, equitable relief, exemplary damages of not less than 3 times the compensation received by the consultant for certain violations or not less than 3 times the actual damages for other violations. Criminal penalty is also a misdemeanor of up to one year in jail and/or \$10,000 fine.

Minnesota prohibits arbitration in any contracts. Regarding foreclosure purchasers, Minnesota restricts actions to those brought by the homeowner or the attorney general. For violations of the prohibited acts section, Minnesota permits exemplary damages of not less than 1½ times the actual damages. The criminal penalty is up to one year in prison and/or a fine of up to \$50,000 fine. Regarding foreclosure consultants, Minnesota permits an action by an aggrieved homeowner or the attorney general for violations of any provisions applicable to the consultants. They may recover actual damages, reasonable attorney fees, equitable relief, and exemplary damages for violation of the prohibited acts section of up to 1½ times compensation charged by the consultant, if done in bad faith. Criminal penalties of up to one year in prison and/or \$10,000 fine can be assessed.

Maryland permits the homeowner to sue for damages incurred as a result of a practice prohibited by the title (applies to all three entities covered--consultants, purchasers, surplus purchasers), for attorney fees, and for damages equal to three times the amount of actual damages.

Georgia provides that the consumer may sue for injunctive relief, general damages, exemplary and treble damages for intentional violations, and attorney fees. Class actions are prohibited.

Missouri allows the homeowner to sue for actual damages, reasonable attorney fees, cost, and appropriate equitable relief. The consumer also may receive exemplary damages of up to twice the compensation received by the consultant in excess of that allowed under the act.

DREAMS FORECLOSED:
The Rampant Theft of Americans' Homes Through Equity-stripping Foreclosure "Rescue" Scams

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