Report: Most foreclosure laws tilted toward banks

by Jim_Woodard

Laws that are unfriendly to homeownership make life more difficult need be for many Americans in danger of foreclosure, says a recent report from the National Consumer Law Center.

Many states have taken steps in recent years to strengthen the right of renters, but only a handful of states have updated their home-foreclosure laws that are now tilted against homeowners, the report noted. Based on a survey of existing state laws, the report identifies some of the most antiquated state law provisions, including "fast track" foreclosures without court oversight in 30 states.

"In recent months, a wave of foreclosures has swept millions of American families from their homes," the report said. "The magnitude of this crisis defies easy comprehension. More than 8 million American families are expected to lose their homes to foreclosure in the next four years.

"Much has been written about the financial and economic causes of this disaster. Much less notice has gone to another factor that has accelerated and multiplied this grave loss of homes and savings. Antiquated state laws have in some ways afforded fewer protections to homeowners than to renters."

For example, in 30 states and Washington, D.C., mortgage holders who allege that homeowners have fallen behind in their payments can bypass the courts and move directly to take away and auction off homes, the NCLC report said. This denies homeowners due process protection comparable to that given many tenants.

Another example: In 33 states and in D.C. there is no requirement that homeowners be personally served with a foreclosure notice or legal documents that start a court foreclosure case.

No effort is required to find solutions short of foreclosure. In every state, but California and Connecticut, mortgage holders can move directly to foreclosure without being required by state law to consider or discuss ways to avoid loss of the home with homeowners, such as through modification of terms of the loan.

Eleventh-hour payments can often be ignored. In 29 states, a mortgage holder has no obligation under law to stop foreclosure procedures even if the homeowner, just before the house has been sold, comes up with the money to catch up on the owned payments and incurred penalties and fees.

The list of antiquated laws goes on and on.

"The foreclosure crisis continues to spin out of control," said attorney Geoff Walsh, with NCLC and co-author of the report. "Modernization and improvement of state foreclosure laws can significantly help blunt the impact of the crisis on individual homeowners and communities.

"Methods by which homes are foreclosed in this country are almost exclusively controlled by state law. While reform of state foreclosure laws will not end the current foreclosure crisis, it can reduce the number of foreclosures."

Q: What impact will the tax credit for "green" home-improvement projects have on the market?

A: The recently expanded tax credits for energy-efficient home improvements will be a big help in the new economic stimulus package, says the National Association of Home Builders. The credits will create more green homes, and the affordable improvements will boost the resale value of homes.

The IRS credit for existing homes expired at the end of 2007, but was reinstated as part of the economic rescue package passed by the Bush administration last fall. Homeowners can install energy-efficient windows, doors, roofing, insulation, furnaces and air conditioners, while benefiting from significant tax credits.

The credit rate and lifetime cap has been tripled from the previous version â€” now 30 percent of the cost of each product with a lifetime cap of $1,500. The deadline for applying has been extended through the end of 2010.

"The new tax credit aligns with industry research indicating that even the most aggressive efficiency goals for new homes won't make a dent in overall energy consumption," said Greg Miedema with the NAHB. "Instead, remodeling and retrofitting the nation's older homes is by far the more efficient solution."

Q: What is the new REO Rental Initiative all about?

A: Freddie Mac, a major government-sponsored buyer of existing home mortgages, recently launched the Real Estate Owned Rental Initiative. The initiative gives qualified tenants and former owners the option to lease their recently foreclosed properties on a month-to-month basis.

The program is managed by HomeSteps, Freddie Mac's national real estate unit, and is implemented through several national property management firms. These firms are in the process of contacting occupants of foreclosed properties to determine their interest in staying in the home and their eligibility for a month-to-month lease.

To qualify for a lease, the tenant or former owner must occupy the property and show they have adequate income to pay the monthly rental established by the property management company. The amount is based on market rents for the area where the home is located. Occupants must also agree to allow the showing of the home to potential buyers, as it will be marketed for sale during the lease period.

Also, the home must be in safe, habitable condition to qualify. That includes meeting all local codes for rental properties. If the occupant does not wish to lease the property, Freddie Mac will continue its practice of offering relocation assistance. Freddie Mac will also explore available workout options with owner-occupant after they gain title to the property through foreclosure, it was reported.

Freddie Mac also announced it has suspended all eviction actions until April 1 to ensure there is ample time for current occupants to learn about the option available to them under the new initiative.

Report: Most foreclosure laws tilted toward banks by Jim_Woodard