

A BILL 1

17-101 2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA 3  
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To prohibit equity stripping through unscrupulous real property transactions and protect 6  
financially distressed homeowners. 7

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this 8  
act may be cited as the “Home Equity Protection Act of 2007”. 9

Section 2. Definitions. 10

(1) “Foreclosure rescue transaction” means a transaction involving the transfer of 11  
title to real property, or an interest in the property, by a homeowner during or incident to a 12  
mortgage default, foreclosure, or tax sale proceeding, either by transfer of any interest from the 13  
homeowner to another party or by creation of a mortgage, trust, or other lien or encumbrance 14  
during the foreclosure process; provided that the transaction includes the subsequent conveyance, 15  
the promise of a subsequent conveyance, or a right to a subsequent conveyance of an interest 16  
back to the homeowner from the acquirer or a person acting in participation with the acquirer, 17  
including an interest in a contract for deed, purchase agreement, land installment sale, contract 18  
for sale, option to purchase, sale/leaseback, trust, or other contractual arrangement. 19

(2) “Foreclosure rescue service” means any good or service related to, or 20  
promising assistance in connection with: (i) avoiding or delaying actual or anticipated foreclosure 21  
proceedings concerning residential property; or (ii) curing or otherwise addressing a default or 22  
failure to timely pay, with respect to a residential mortgage loan obligation. 23

Section 3. Prohibited foreclosure transactions and practices. 1

(a) It shall be unlawful, for compensation or gain or for potential or contingent 2  
compensation or gain, whether at the time of the transaction or in the future, to engage in, 3  
arrange, offer, promote, promise, solicit participation in, or carry out a foreclosure rescue 4  
transaction in the District or concerning residential property in the District. Nothing in this 5  
subsection shall be interpreted to prohibit foreclosure rescue transactions that are not carried out 6  
for compensation or gain or for potential or contingent compensation or gain, including, by way 7  
of example, such transactions engaged in between or among family members or arranged by a 8  
bona fide non-profit community organization or non-profit housing organization. 9

(b) It shall be unlawful to advertise, offer, or promote the availability of foreclosure 10  
rescue transactions or services related to foreclosure rescue transactions. 11

(c) It shall be unlawful to advertise, offer, or promote foreclosure rescue services without 12  
disclosing, clearly and conspicuously, a precise description of the goods and/or services offered 13  
and how they will assist persons in avoiding or delaying foreclosure or curing or otherwise 14  
addressing a default or failure to timely pay a residential mortgage loan obligation. 15

(d) Nothing in this section shall be interpreted to prohibit the advertising of, offering of, 16  
promoting of, or engaging in foreclosure rescue transactions or foreclosure rescue services that 17  
are not carried out for compensation or gain or for potential or contingent compensation or gain, 18  
including, by way of example, such transactions engaged in between or among family members 19  
or arranged by a bona fide non-profit community organization or non-profit housing 20  
organization. 21

Section 4. Fiduciary duties. 22

Any person who advertises, offers, promotes, or provides foreclosure rescue services to a 23  
homeowner owes a fiduciary duty to the homeowner and shall discharge that duty in accordance 24

with all applicable laws. 1

Section 5. Private actions. 2

(a) In addition to any action by the Attorney General authorized under this act and any 3  
other action otherwise authorized by law, a homeowner may bring an action for damages 4  
incurred, or equitable relief, as the result of a practice prohibited by this act. 5

(b) A homeowner who brings an action under this act and who is awarded damages or 6  
equitable relief may also be awarded reasonable attorney's fees and costs. 7

(c) A violation of this Act is considered to be a violation of the DC Consumer Protection 8  
Procedures Act ("CPPA"), effective July 22, 1976 (D.C. Official Code §§ 28-3901 *et seq.*), and 9  
all remedies of the CPPA are available for such an action. A private cause of action under the 10  
CPPA is in the public interest. 11

(d) The remedies provided in this section are cumulative and do not restrict any remedy 12  
that is otherwise available. 13

Sec. 6. Criminal penalties. 14

(a) Any person who knowingly violates any provision of this act, or any rule promulgated 15  
pursuant to this act, shall be fined not more than \$ 10,000 or imprisoned for not more than 1 year, 16  
or both. All prosecutions of this subsection shall be instituted by the Attorney General for the 17  
District of Columbia or any of his/her assistants. 18

(b) A person who knowingly commits a second or subsequent violation of any provision 19  
of this act, or any rule promulgated pursuant to this act, shall be fined not more than \$ 50,000 or 20  
imprisoned for not more than 5 years, or both. 21

Sec. 7. Fiscal impact statement. 22

The Council adopts the fiscal impact statement in the committee report as the fiscal 23  
impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, 24

**ENGROSSED ORIGINAL**

approved December 24, 1973 (84 Stat. 813; D.C. Official Code § 1-206.02(c)(3)). 1

Sec. 8. Effective date. 2

This act shall take effect following approval by the Mayor (or in the event of veto by the 3  
Mayor, action by the Council to override the veto), a 30-day period of Congressional review as 4  
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 5  
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of 6  
Columbia Register. 7