



NEW YORKERS FOR RESPONSIBLE LENDING

HOME EQUITY THEFT PREVENTION ACT

SUMMARY OF LAW

Throughout New York State and the country, low and moderate income homeowners in foreclosure have been targeted by unscrupulous companies and “investors” for disadvantageous “foreclosure rescue” scams. These scams ultimately require homeowners to transfer title to their homes to the “foreclosure rescue” company. Although the scams vary, homeowners inevitably end up losing their homes and are evicted.

In July 2006, New York State enacted the Home Equity Theft Prevention Act,¹ which goes into effect on February 1, 2007. The new law, which pertains to transactions between homeowners and real estate speculators:

- Requires a written contract outlining the specific terms of the transfer of title, including the consideration, any lease agreement, and any repurchase agreement;
- Requires a notice of right to cancel to be delivered to the homeowner, and allow for a right to cancel the contract for five business days after the contract is signed;
- Allows for an extended right to rescind the contract if the company does not provide the proper notice of right to cancel, or if the company engages in deceptive practices;
- Prohibits the company from accepting title to the property, transferring or taking out a mortgage on the property, or paying the homeowner until the five-day right to rescind expires;
- Prohibits the company from making untrue or misleading statements about the value of the house, any contract term, the timing of the foreclosure process, etc.; and
- Establishes criminal and civil penalties for violating this law, including actual damages, treble damages and, in some cases, rescission.

For more information, please contact New Yorkers for Responsible Lending, at
nyrl@nedap.org.

¹The Home Equity Theft Prevention Act amends Banking Law § 595-a, and creates two new provisions, RPL § 265-a and RPAPL §1303.