

Crackdown sought on debt scams and foreclosure abuse

Emily Claire Atkin

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New Yorkers are needlessly losing money and families are being devastated, according to New Yorkers for Responsible Lending, a coalition of representatives from more than 150 groups fighting what they consider abusive debt collection and unfair home foreclosure practices.

The coalition, which includes the AARP, New York Public Interest Research Group and the Empire Justice Center, is a project of the Neighborhood Economic Development Advocacy Project, a resource and advocacy center for community groups in New York City.

Group representatives conducted a rally in Albany April 15 to tout their 2010 policy platform and urge legislators to support the Consumer Credit Fairness Act. The coalition states that bill S.4398-a/A.7558-a, sponsored by Senate Codes Committee Chairman Eric Schneiderman, D-Manhattan, and Assembly Judiciary Committee Chairwoman Helene Weinstein, D-Brooklyn, would "stem the tide of abusive debt collection cases currently flooding the courts."

The issue of illegal home foreclosure practices did not have an accompanying bill, but Sarah Ludwig, executive director of the Neighborhood Economic Development Advocacy Project, said the groups were starting conversations with legislators.

"Abusive financial practices were a major cause of our economic crisis and the financial meltdown," said Ludwig. "In fact, we have a lot of financial institutions and debt collection and other entities that are taking advantage of the recession, taking advantage of economic hardship and continuing to take advantage of communities as well."

According to Ludwig, the explosion in recent years of credit, medical and consumer debt has prompted debt collectors and buyers to abuse their practices by suing debtors without considerable proof of the amount owed. If the debtor cannot find or pay for a proper attorney, current law makes it hard for them to prove they do not owe, according to Ludwig.

A debt buyer is a company, usually a collection agency or law firm, that purchases debt from a creditor for a fraction of its face value. The debt-buying industry has grown significantly in recent years, stretching from \$12 billion in debt purchased in 1995 to \$110 billion in 2005,

according to a statement released by the Neighborhood Economic Development Advocacy Project.

"Debt buyers routinely file lawsuits without notifying people that they have been sued, then garnish people's wages and freeze their bank accounts," said Susan Shin, the project's staff attorney. "Families cannot pay for basic needs, and their credit is damaged, impeding their ability to find housing and employment, or take out a loan."

The coalition of organizations is urging the passage of the Consumer Credit Fairness Act, which would put stricter regulations on debt buyers who want to file a lawsuit, requiring them to provide information such as the name of the original creditor, the date and amount of the last payment made and an itemization of the amount sought, among other things.

The Consumer Credit Fairness Act passed in the Assembly last year but was not voted on in the Senate. In January, the bill was ordered to a third reading in the Assembly and referred to the Senate Codes Committee.

Along with providing protection against debt collection abuse, the organization is also urging the Legislature to properly enforce and add additional protections to New York's foreclosure prevention law, passed and signed into law in February 2008 by Gov. David A. Paterson.

According to the coalition, lenders often bring foreclosure action against homeowners when they are not actually the holder of the mortgage — a process known as "standing." If the homeowner does not contest the party's right to sue immediately, homeowners inadvertently give up their right to do so, according to the coalition.

In addition, the coalition pointed to an increasing number of scams by companies promising to rescue homeowners from foreclosure, known as distressed property consultants. The consultants, according to the coalition, illegally charge hefty, unprecedented fees for their services before they are even provided.

According to Kirsten Keefe, an attorney with the Empire Center for Justice and a member of the coalition, distressed property consultants are "particularly nefarious ... because New York has already pledged significant funding to fund housing counselors to provide these services for free and on a much more reputable level."

The foreclosure prevention law passed in 2008 has provisions to protect homeowners from such scams, but they are not being enforced, according to Keefe.

Keefe, who spoke at the coalition's rally, called on the Legislature to close the loophole that lets

standing occur. She also called on state regulatory agencies, particularly pointing to Attorney General Andrew Cuomo and the state Banking Department, to "bring strong enforcement actions against these many, many companies that violate mortgage laws."

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