

Real Estate: New Nevada laws afford distressed homeowners key protections

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Distressed homeowners in Nevada were handed several key protections in the last legislative session, with one new law potentially spelling trouble for banks guilty of sloppy record keeping while selling mortgage notes to investors.

The measures include protections against unscrupulous debt buyers who "double dip" by buying mortgage notes for pennies on the dollar and then turn around to collect debt from borrowers for the note's original amount.

Stricter documentation requirements also means banks must show actual proof of ownership before being allowed to complete a foreclosure sale.

Overall, the protections provide relief for borrowers frustrated by a system that typically did not come down hard on lenders who failed to act in good faith.

Three new laws in particular -- Senate Bill 414 and Assembly Bills 273 and 284 -- are expected to make a difference in addressing the state's ongoing foreclosure crisis.

Nevada continued to lead the nation for the 54th straight month in June with a foreclosure-related activity rate of one in 114 housing units, according to RealtyTrac. Nearly three in five homes with a mortgage in the Reno-Sparks market also were either suffering from negative equity or are at risk of being underwater during the first quarter of 2011, according to a report from CoreLogic.

"These new statutes are huge," said Greg Jensen, owner of the Jensen Law Group in Reno. "It looks like the Legislature really did their homework."

SB 414

A law that took effect this June, Senate Bill 414 prohibits banks from unreasonably delaying responses to a short sale offer.

The law is designed to ensure that a valid short sale does not get scuttled because of processing delays. Such delays especially were an issue at the onset of the housing crisis, when some short sellers waited more than a year to close the deal.

In some cases, delays caused otherwise surefire short sale transactions to turn into foreclosure sales because the parties involved could no longer wait. Besides raising the area's foreclosure rate, foreclosure sales also dragged down area median prices since the final selling price typically ended up being lower than what the property would have fetched in a short sale.

The deadline for a response under the new law is 90 days, unless the parties involved agree to a delay. Failure to respond in a timely fashion will be considered a misdemeanor.

In addition, the law also prevents banks from getting a deficiency judgment against the short seller under certain conditions, such as if the property was the borrower's primary residence.

The short sale business was especially terrible in the beginning of the housing bust because banks were not waiving deficiencies, putting borrowers on the hook for the difference between the discounted sale price and the original mortgage, said Geoffrey Giles, a Reno lawyer who has extensive experience with real estate cases. The deficiencies could range from tens of thousands to hundreds of thousands of dollars.