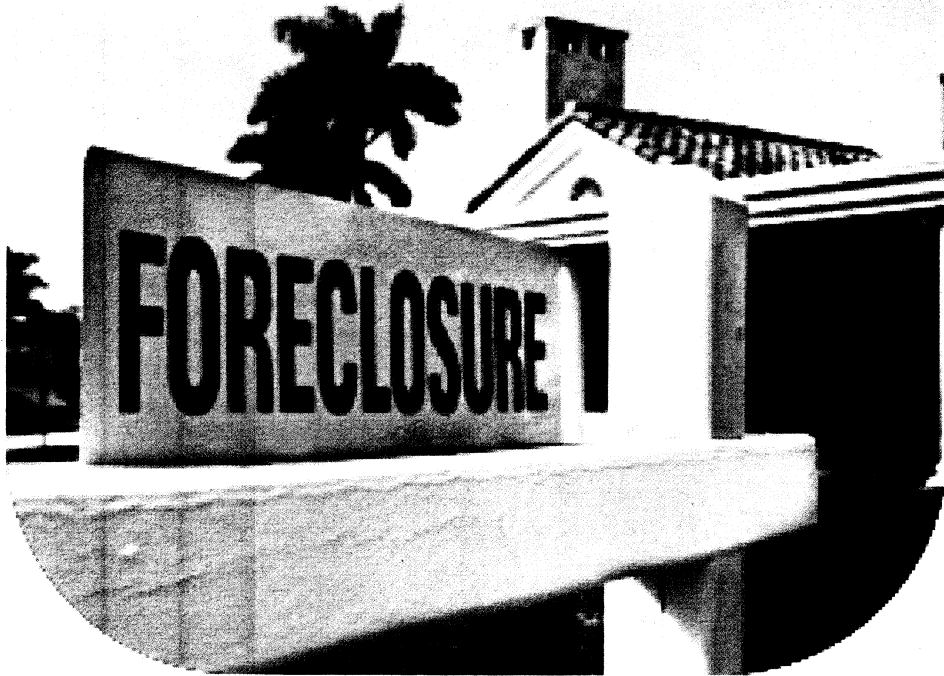


ALERT

**New Foreclosure Law
October 1, 2008**



CHAPTER 2008-79

Council Substitute for House Bill No. 643

An act relating to foreclosure fraud; creating s. 501.1377, F.S.; providing legislative findings and intent with respect to the need to protect homeowners who enter into agreements designed to save their homes from foreclosure; providing definitions; prohibiting a foreclosure-rescue consultant from engaging in certain acts or failing to perform contracted services; requiring that all agreements for foreclosure-related rescue services and foreclosure-rescue transactions be in writing; specifying information that must be in the written agreement; requiring that certain statements in the written agreement be in uppercase letters and of a specified size; providing that the homeowner has a right to cancel the agreement for a specified period and the right may not be waived; providing that the homeowner has a specified period during which to cure a default under certain circumstances; requiring equity purchasers to assume or discharge certain liens; requiring that an equity purchaser verify the homeowner's ability to make payments under a repurchase agreement; providing price limitations for repurchase transactions; providing for a rebuttable presumption of certain transactions being unconscionable under certain circumstances; providing for limited application of the presumption; providing an exclusion; providing that a foreclosure-rescue transaction involving a lease option or other repurchase agreement creates a rebuttable presumption that the transaction is a loan transaction and the conveyance from the homeowner to the equity purchaser is a mortgage; providing limited application of the presumption; providing an exclusion; providing that a person who violates certain provisions commits an unfair and deceptive trade practice as defined in part II of ch. 501, F.S.; providing penalties; repealing s. 501.2078, F.S., relating to violations involving individual homeowners during the course of residential foreclosure proceedings; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.1377, Florida Statutes, is created to read:

501.1377 Violations involving homeowners during the course of residential foreclosure proceedings.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that homeowners who are in default on their mortgages, in foreclosure, or at risk of losing their homes due to nonpayment of taxes may be vulnerable to fraud, deception, and unfair dealings with foreclosure-rescue consultants or equity purchasers. The intent of this section is to provide a homeowner with information necessary to make an informed decision regarding the sale or transfer of his or her home to an equity purchaser. It is the further intent of this section to require that foreclosure-related rescue services agreements be expressed in writing in order to safeguard homeowners against deceit and financial hardship; to ensure, foster, and encourage fair dealing in the sale