

# Welcome

*Current Real Estate Issues in a Nutshell:*

- Mortgage Short Sales
- Mortgage Foreclosures
- New Homestead Law
- Mortgage Loan Fraud



with David R. Rocheford, Jr., Esq.

## Mortgage Short Sales

- Still no “Magic Bullet” to speed up short sales.
- Federal Trade Commission (FTC) and the **Mortgage Assistance Relief Services** rule (MARS).
  - ✓ MARS rule requires disclosures.
    - General Communication with consumers.
    - Specific Communication with consumers.
    - When providing an offer of Mortgage Relief.
  - ✓ Up front fee for service prohibited.
  - ✓ Detailed record keeping required.



## Mortgage Short Sales (cont)

- Home Affordable Foreclosure Alternatives (HAFA) Program.
  - ✓ You live in the home or have lived there in the last 12 months.
  - ✓ You have a documented financial hardship.
  - ✓ You have not purchased a new house within the last 12 months.
  - ✓ Your first mortgage is less than \$729,750.
  - ✓ You obtained your mortgage on or before January 1, 2009.
  - ✓ You must not have a felony fraud conviction.



## Mortgage Short Sales (cont)

- Short Sale Flip and Title Insurance.
  - ✓ Short Sale purchaser/negotiator does little to increase the value of the property.
  - ✓ Resells the property to a BFP for value substantially above the short sale purchase price.
  - ✓ Does not inform the short sale lender of the potential resale value or deceives the lender.
  - ✓ The shorted lender may have recourse to void the initial and subsequent transactions.
  - ✓ National Title Insures have given the directive not to issue policies on suspect transactions.



## Mortgage Short Sales (cont)

- Conclusions:
  - ✓ There are alternatives and services available
    - Bosco Law Office - Rick (978) 687-8804.
  - ✓ Regulations will likely provide greater opportunity for legitimate service providers.
  - ✓ Federal Government realizes the need for programs and incentives for distressed consumers.
  - ✓ Title insurance, and other trade lobbies have committed to address issues.



## Foreclosures

- Foreclosure Documents:
  - ✓ Foreclosed Mortgage;
  - ✓ Assignment of Mortgage (if applicable);
  - ✓ Complaint to Foreclose;
  - ✓ Judgment;
  - ✓ Entry;
  - ✓ Power of Attorney authorizing Entry;
  - ✓ Foreclosure Deed;
  - ✓ Affidavit attached to Foreclosure Deed;
  - ✓ Assignment of Bid (if applicable).



## Foreclosures

- Foreclosure Law Firms
  - Title curative specialists.
  - New rule on the validity of Corporate Votes.
  
- Robo Signing
  - Automatic generation of bogus, signed, documents used to perfect a chain of title or make a nexus.
  
- Shadow Inventory
  - The pending supply of distressed properties such as bank repossessions, those in some stage of foreclosure and those that are 90 days or more delinquent on mortgage payments.
  - 9 to 12 month supply of residential properties. (CoreLogic.com)



## New Homestead Law

- Automatic homestead exemption of \$125,000.
- Homeowners can file a \$500,000 written declaration.
- A written homestead declaration can now be signed by both husband and wife.
- Current written homestead are still \$500.000.
- Homes held in trust can be declared as a homestead.
- Homestead automatically protects the new spouse.
- Homestead protection passes to the surviving spouse and children who live in the home.
- You do not have to re-file a homestead after a refinance.
- Closing attorneys must now provide the mortgagor with a written notice of availability of a homestead.





## Mortgage Loan Fraud

- According to the F.B.I., loan fraud is any material misstatement, misrepresentation or omission relied upon by a mortgage underwriter or lender to fund a loan.
  - ✓ Making false loan applications.
  - ✓ Kickbacks.
  - ✓ Undisclosed second mortgages.
  - ✓ Misstating intent to occupancy.
  - ✓ Receiving false gift funds or equity.
  - ✓ Inflated purchase price.
  - ✓ Falsifying deposits.
  - ✓ False adjustments, purchases or credits.
  - ✓ Secret concessions.
  - ✓ Dual contracts or side agreements.



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**Thank You!**