

issuance of the stay, an action in connection with a foreclosure reconveyance transaction, the stay shall remain in effect until the court hearing the action related to the foreclosure reconveyance renders a final decision in the matter.

(10) ENFORCEMENT. (a) A violation of this section shall be considered a fraud.

(b) A foreclosed homeowner against whom a violation of this section is committed may bring an action for damages.

(c) A court may order punitive damages under s. 895.043 for a violation of this section.

(d) 1. A foreclosure purchaser who violates this section by engaging in any practice that would operate as a fraud or deceit upon a foreclosed homeowner may be fined not more than \$50,000 or imprisoned for not more than one year in the county jail or both.

2. In the absence of additional misconduct, a failure of the parties to complete a foreclosure reconveyance transaction shall not subject a foreclosure purchaser to the criminal penalties under subd. 1.

SECTION 852. 846.45 of the statutes is created to read:

846.45 Regulation of foreclosure consultants. (1)

DEFINITIONS. In this section, unless the context requires otherwise:

(a) "Contract" means an agreement, or any term in an agreement, between a foreclosure consultant and a foreclosed homeowner for the rendition of any service.

(b) "Foreclosed homeowner" has the meaning given in s. 846.40 (1) (b).

(c) 1. Except as provided in subd. 2., "foreclosure consultant" means a person who, directly or indirectly, makes a solicitation, representation, or offer to a foreclosed homeowner to perform for compensation, or who for compensation performs, any service that the person in any manner represents will in any manner do any of the following:

a. Stop or postpone the foreclosure sale.

b. Obtain any forbearance from a beneficiary or mortgagee.

c. Obtain a waiver of an acceleration clause contained in a promissory note or contract secured by a mortgage on the residence in foreclosure or contained in the mortgage.

d. Assist the foreclosed homeowner to obtain a loan or advance of funds.

e. Avoid or ameliorate the impairment of the foreclosed homeowner's credit resulting from the recording of a lis pendens or the conduct of a foreclosure sale.

f. Save the residence in foreclosure from foreclosure.

2. "Foreclosure consultant" does not include any of the following:

a. A person licensed to practice law in this state when the person renders service in the course of his or her practice as an attorney at law.

b. A person licensed as a real estate broker or salesperson under ch. 452 when the person engages in acts for which licensure under that chapter is required, unless the person is engaged in offering services designed to, or purportedly designed to, enable the foreclosed homeowner to retain possession of the residence in foreclosure.

c. A person certified or licensed to practice as a certified public accountant under ch. 442 when the person is acting in any capacity for which the person is certified or licensed under that chapter.

d. A person, or the person's authorized agent, acting under the express authority or written approval of the department of housing and urban development or other department or agency of the United States or this state to provide services.

e. A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with this obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance.

f. A person or entity doing business under any law of this state, or of the United States, relating to a financial institution, as defined in s. 214.01 (1) (jn), to a lender licensed under s. 138.09, to an insurance company, or to a mortgagee that is a federal department of housing and urban development approved mortgagee; a subsidiary or affiliate of any of these persons or entities; or an agent or employee of any of these persons or entities while engaged in the business of these persons or entities.

g. A person registered under s. 224.72 as a mortgage banker, loan originator, or mortgage broker, when acting under the authority of that registration.

h. A judgment creditor of the foreclosed homeowner, to the extent that the judgment creditor's claim accrued prior to the recording of the lis pendens in the foreclosure action.

i. A foreclosure purchaser.

j. An adjustment service company licensed under s. 218.02, but only when engaged in business unrelated to real estate.

(d) "Foreclosure purchaser" has the meaning given in s. 846.40 (1) (c).

(e) "Foreclosure reconveyance" has the meaning given in s. 846.40 (1) (d).

(f) "Person" means any individual, partnership, corporation, limited liability company, association, or other group, however organized.

(g) "Residence in foreclosure" has the meaning given in s. 846.40 (1) (h).

(h) "Service" includes any of the following:

1. Debt, budget, or financial counseling of any type.

2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

3. Contacting creditors on behalf of a foreclosed homeowner.

4. Arranging or attempting to arrange for a delay or postponement of the time of sale of the residence in foreclosure.

5. Advising the filing of any document, or assisting in any manner in the preparation of any document for filing, with a bankruptcy court.

6. Giving any advice, explanation, or instruction to a foreclosed homeowner that in any manner relates to curing a default in or reinstating an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure, under a power of sale contained in any mortgage.

(2) CANCELLATION OF FORECLOSURE CONSULTANT CONTRACT. (a) In addition to any other right under law to rescind a contract, a foreclosed homeowner has the right to cancel a contract until midnight of the 3rd business day after the day on which the foreclosed homeowner signs a contract that complies with sub. (3).

(b) 1. Cancellation occurs when the foreclosed homeowner delivers, personally or by certified mail, written notice of cancellation to the foreclosure consultant at the foreclosure consultant's address specified in the contract.

2. If notice of cancellation is given by certified mail, cancellation is effective when the notice is deposited in the U.S. mail, properly addressed with postage prepaid. If notice of cancellation is personally delivered, the foreclosure consultant must give the foreclosed homeowner a receipt. Cancellation, if personally delivered, is effective when the foreclosed homeowner hands the notice to the foreclosure consultant.

(c) Notice of cancellation given by the foreclosed homeowner need not take the particular form provided with the contract under sub. (3) (e). However expressed, notice is effective if it indicates the intention of the foreclosed homeowner not to be bound by the contract.

(3) CONTRACT. (a) Every contract must be in writing and must fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

(b) The following notice, printed in not less than 14-point boldface type and completed with the name of the foreclosure consultant, must be printed immediately above the statement required by par. (c):

NOTICE REQUIRED BY WISCONSIN LAW

.... (name of foreclosure consultant) or anyone working for him or her CANNOT do any of the following:

1. Take any money from you or ask you for money until (name of foreclosure consultant) has completely finished doing everything he or she said he or she would do.

2. Ask you to sign or have you sign any lien, mortgage, or deed.

(c) The contract must be written both in English and in the same language as principally used by the foreclosure consultant to describe his or her services or to negotiate the contract if other than English, must be dated and signed by the foreclosed homeowner, and must contain in immediate proximity to the space reserved for the foreclosed homeowner's signature, in not less than 10-point boldface type, the following statement: "You, the owner, may cancel this transaction at any time prior to midnight of the 3rd business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(d) The notice of cancellation form under par. (e) must contain, and the contract must contain on the first page, in a type size that is no smaller than that generally used in the body of the document, both of the following:

1. The name and street or physical address of the foreclosure consultant to which the notice of cancellation is to be mailed by certified mail or personally delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by certified mail only if it is accompanied by a street or physical address at which the notice may be personally delivered.

2. The date the foreclosed homeowner signed the contract.

(e) The contract must be accompanied by a completed form in duplicate, captioned "NOTICE OF CANCELLATION." This form must be attached to the contract, must be easily detachable, and must contain, in not less than 10-point type and written in the same language or languages as used in the contract, the following statement:

NOTICE OF CANCELLATION

(Enter date of transaction)

1. You may cancel this transaction, without any penalty or obligation, within 3 business days from the above date.

2. To cancel this transaction, you may either mail by certified mail or personally deliver a signed and dated copy of this notice of cancellation, or any other written notice of cancellation, to (name of foreclosure consultant) at (street or physical address of foreclosure consultant's place of business) NOT LATER THAN MIDNIGHT OF (date). If you personally deliver a notice of cancellation, (name of foreclosure consultant) must give you a receipt.

3. I hereby cancel this transaction.

(Date)

(Owner's signature)

(f) The foreclosure consultant shall provide the foreclosed homeowner with a copy of the contract and the attached notice of cancellation immediately upon execution of the contract.

(g) The 3 business days during which the foreclosed homeowner may cancel the contract shall not begin to run

until the foreclosure consultant has complied with this subsection.

(4) VIOLATIONS. It is a violation of this section for a foreclosure consultant to do any of the following:

(a) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented that he or she would perform.

(b) Claim, demand, charge, collect, or receive any fee, interest, or any other compensation for any reason that exceeds 8 percent per year of the amount of any loan that the foreclosure consultant may make to the foreclosed homeowner. Any loan may not, as provided in par. (c), be secured by the residence in foreclosure or any other real or personal property.

(c) Take a wage assignment, a lien of any type on real or personal property, or any other security to secure the payment of compensation. Any security taken to secure the payment of compensation is void and unenforceable.

(d) Receive any consideration from any 3rd party in connection with services rendered to a foreclosed homeowner unless the consideration is first fully disclosed to the foreclosed homeowner.

(e) Acquire any interest, directly or indirectly or by means of a subsidiary or affiliate, in a residence in foreclosure from a foreclosed homeowner with whom the foreclosure consultant has contracted.

(f) Except as otherwise provided by law, take any power of attorney from a foreclosed homeowner for any purpose.

(g) Induce or attempt to induce any foreclosed homeowner to enter into a contract that does not comply in all respects with subs. (2) and (3).

(h) Fail to give a receipt to a foreclosed homeowner if the foreclosed homeowner personally delivers timely written notice of cancellation of a contract under sub. (2) (b).

(5) WAIVER NOT ALLOWED. Any waiver by a foreclosed homeowner of this section or of a foreclosed homeowner's rights under this section is void and unenforceable as contrary to public policy. Any attempt by a foreclosure consultant to induce a foreclosed homeowner to waive the foreclosed homeowner's rights is a violation of this section.

(6) PENALTIES AND REMEDIES. (a) The department of agriculture, trade and consumer protection may investigate violations of this section under ss. 93.14 and 93.15.

(b) Any person suffering a pecuniary loss because of a violation of this section may commence an action against the violator. If the court determines that the person suffered a pecuniary loss because of the violation, the court shall award the person twice the amount of the pecuniary loss or \$200, whichever is greater, for each violation, together with costs and, notwithstanding s. 814.04 (1), reasonable attorney fees.

(c) The department of agriculture, trade and consumer protection may commence an action to restrain a violation of this section. In addition to providing any equitable relief, the court may award any person who suffered a pecuniary loss because of the violation twice the amount of the pecuniary loss or \$200, whichever is greater, for each violation.

(d) The department of agriculture, trade and consumer protection or the district attorney may commence an action to recover a forfeiture of not less than \$100 nor more than \$10,000 for a violation of this section.

(e) Whoever violates this section may be fined not less than \$25 nor more than \$10,000 or imprisoned for not more than one year in the county jail, or both.

(7) CONTRACT PROVISION FOR ARBITRATION VOIDABLE. Any provision in a contract entered into on or after the effective date of this subsection ... [LRB inserts date], that attempts or purports to require arbitration of any dispute arising under this section is voidable at the option of the foreclosed homeowner.

(8) STATUTORY CONFLICTS RELATED TO ADJUSTMENT SERVICE COMPANIES. To the extent that any provision of this section is inconsistent with s. 218.02 with respect to a foreclosure consultant that is licensed under s. 218.02 and engages in adjustment service company business related to real estate, the provisions of this section shall supersede any conflicting provision of s. 218.02.

SECTION 853. 943.62 (2m) of the statutes is amended to read:

943.62 (2m) This section does not apply to a savings and loan association, credit union, bank, savings bank, or a mortgage banker, mortgage loan originator, or mortgage broker ~~registered~~ licensed under s. 224.72 or 224.725.

SECTION 9110. Nonstatutory provisions; Commerce.

(1) TENANT RESOURCE CENTER GRANT. In fiscal year 2008-09, the department of commerce shall award to the Tenant Resource Center in Madison from the appropriation under section 20.143 (2) (b) of the statutes, as affected by this act, a grant not to exceed \$200,000, for providing foreclosure education and assistance to tenants throughout the state.

(2) WISCONSIN REGIONAL TRAINING PARTNERSHIP/BUILDING INDUSTRY GROUP SKILLED TRADES EMPLOYMENT PROGRAM. In fiscal year 2008-09, from the appropriation account under section 20.143 (1) (c) of the statutes, as affected by this act, the department of commerce shall award \$1,000,000 in grant moneys to expand the Wisconsin Regional Training Partnership/Building Industry Group Skilled Trades Employment Program if, as a condition of receiving the award, the Wisconsin Regional Training Partnership/Building Industry Group Skilled Trades Employment Program enters into a contract with the department that specifies permissible uses of the grant moneys and that requires the Wisconsin Regional